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# **Rules & Calendar Council**

**Wednesday, February 22, 2006 , 2005  
4:45 PM – 5:45 PM  
404 HOB**

## **MEETING PACKET**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB RCC 06-01 Florida Statutes - Reviser's Bill  
**SPONSOR(S):** Rules & Calendar Council  
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE                             | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|---------|----------------|
| Orig. Comm.: Rules & Calendar Council |        | Sayler  | Rubottom       |
| 1) _____                              | _____  | _____   | _____          |
| 2) _____                              | _____  | _____   | _____          |
| 3) _____                              | _____  | _____   | _____          |
| 4) _____                              | _____  | _____   | _____          |
| 5) _____                              | _____  | _____   | _____          |

### SUMMARY ANALYSIS

The Division of Statutory Revision of the Office of the Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

PCB RCC 06-01 is a general reviser's bill to delete expired or obsolete language; correct cross-references and grammatical or typographical errors; remove inconsistencies and redundancies from the statutes; improve the clarity of the statutes and facilitate their correct interpretation; and confirm the restoration or provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process. Except by report of the Rules & Calendar Council, a reviser's bill cannot be amended except to delete a bill section.

This bill has no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

***Provide limited government***— The bill eliminates uncertainty about the law governing the state. The bill eliminates a large body of statutory language that has no force of law.

#### B. EFFECT OF PROPOSED CHANGES:

The effect of this bill is of a technical nature only; reviser's bills do not contain substantive changes. The bill will clean up grammatical and similar errors in the Florida Statutes. This bill amends, reenacts and repeals various statutory provisions.

#### C. SECTION DIRECTORY:

**Sections 1-28, sections 30-35, sections 37-43, sections 45-83, and sections 86-120** are amending to delete expired or obsolete language; correct cross-references and grammatical or typographical errors; remove inconsistencies and redundancies from the statutes; or improve the clarity of the statutes and facilitate their correct interpretation.

**Section 29, section 36, and section 44** are each reenacting a provision unintentionally omitted from republication in the acts of the Legislature during the amendatory process. Absent affirmative evidence of legislative intent to repeal this section, it is reenacted here to confirm that the omission was not intended.

**Sections 84-85** are repealing expired or obsolete language.

**Section 121** is providing for an effective date

For more specific information explaining each section, the bill itself contains reviser's notes written by the Division of Statutory Revision.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

N/A

##### 2. Expenditures:

N/A

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

N/A

##### 2. Expenditures:

N/A

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:



N/A

**D. FISCAL COMMENTS:**

N/A

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

N/A

**2. Other:**

N/A

**B. RULE-MAKING AUTHORITY:**

N/A

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

N/A

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

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1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes; amending ss.  
3           17.076, 20.165, 23.21, 27.51, 28.2222, 39.3035, 43.16,  
4           98.077, 101.051, 101.111, 112.0455, 112.061, 112.31901,  
5           119.071, 119.15, 161.72, 161.74, 163.3180, 163.3184,  
6           163.3187, 201.15, 202.26, 215.965, 216.136, 253.01,  
7           253.03, 253.74, 316.272, 320.0843, 320.27, 322.121,  
8           337.195, 339.2819, 348.9932, 373.036, 373.0361, 373.1961,  
9           373.421, 375.075, 390.01114, 402.7305, 403.813, 404.056,  
10          406.11, 409.165, 409.814, 409.91196, 440.05, 443.121,  
11          445.009, 466.004, 475.713, 475.801, 475.805, 497.458,  
12          497.459, 499.024, 517.12, 553.792, 553.80, 553.842,  
13          553.8425, 556.102, 570.076, 608.4355, 608.4381, 620.1108,  
14          620.1110, 620.1204, 620.1207, 620.1407, 620.2118,  
15          620.2120, 620.2204, 620.8101, 620.8702, 620.8703, 624.501,  
16          624.509, 626.9911, 627.351, 627.3511, 627.6418, 627.6613,  
17          627.711, 627.7295, 633.026, 633.539, 634.021, 634.401,  
18          636.223, 641.31, 658.12, 694.16, 721.13, 732.103, 739.104,  
19          765.101, 774.203, 774.204, 774.205, 774.208, 784.046,  
20          790.25, 872.05, 895.09, 938.29, 943.04353, 948.012,  
21          948.03, 948.061, 948.062, 1008.25, and 1013.30, F.S.;  
22          reenacting ss. 267.0619, 339.64, and 397.405, F.S.; and  
23          repealing ss. 624.91(3)(d) and 626.8411(2)(d), F.S.;  
24          pursuant to s. 11.242, F.S.; deleting provisions that have  
25          expired, have become obsolete, have had their effect, have  
26          served their purpose, or have been impliedly repealed or  
27          superseded; replacing incorrect cross-references and  
28          citations; correcting grammatical, typographical, and like  
29          errors; removing inconsistencies, redundancies, and

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unnecessary repetition in the statutes; improving the clarity of the statutes and facilitating their correct interpretation; confirming the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process; and conforming to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 17.076, Florida Statutes, is amended to read:

17.076 Direct deposit of funds.--

(5) All direct deposit records made prior to October 1, 1986, are exempt from the provisions of s. 119.07(1). With respect to direct deposit records made on or after October 1, 1986, the names of the authorized financial institutions and the account numbers of the beneficiaries are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Notwithstanding this exemption and the provisions of s. 119.071(5)(b) ~~119.07(3)(dd)~~, the department may provide a state university, upon request, with that university's employee or vendor direct deposit authorization information on file with the department in order to accommodate the transition to the university accounting system. The state university shall maintain the confidentiality of all such information provided by

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59 the department.

60

61 Reviser's note.--Amended to conform to the  
62 redesignation of s. 119.07(3)(dd) as s. 119.07(6)(dd)  
63 by s. 7, ch. 2004-335, Laws of Florida, and the further  
64 redesignation of s. 119.07(6)(dd) as s. 119.071(5)(b)  
65 by s. 25, ch. 2005-251, Laws of Florida.

66

67 Section 2. Paragraph (b) of subsection (9) of section  
68 20.165, Florida Statutes, is amended to read:

69 20.165 Department of Business and Professional  
70 Regulation.--There is created a Department of Business and  
71 Professional Regulation.

72 (9)

73 (b) All employees certified under chapter 943 as law  
74 enforcement officers shall have felony arrest powers under s.  
75 901.15(12) ~~901.15(10)~~ and shall have all the powers of deputy  
76 sheriffs to:

77 1. Investigate, enforce, and prosecute, throughout the  
78 state, violations and violators of:

79 a. Parts I and II of chapter 210; part VII of chapter 559;  
80 and chapters 561-569; and the rules promulgated thereunder, as  
81 well as other state laws which the division, all state law  
82 enforcement officers, or beverage enforcement agents are  
83 specifically authorized to enforce.

84 b. All other state laws, provided that the employee  
85 exercises the powers of a deputy sheriff, only after consultation  
86 and in coordination with the appropriate local sheriff's office,  
87 and only if the violation could result in an administrative

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88 proceeding against a license or permit issued by the division.

89       2. Enforce all criminal laws of the state within specified  
90 jurisdictions when the division is a party to a written mutual  
91 aid agreement with a state agency, sheriff, or municipal police  
92 department, or when the division participates in the Florida  
93 Mutual Aid Plan during a declared state emergency.

94  
95       Reviser's note.--Amended to conform to the current  
96 location of referenced material in s. 901.15, relating  
97 to felony arrest powers. The reference as added by s.  
98 1, ch. 95-346, Laws of Florida, was originally to s.  
99 901.15(11). That material has been redesignated several  
100 times since and is currently in s. 901.15(12).

101  
102       Section 3. Subsection (1) of section 23.21, Florida  
103 Statutes, is amended to read:

104       23.21 Definitions.--For purposes of this part:

105       (1) "Department" means a principal administrative unit  
106 within the executive branch of state government, as defined in  
107 chapter 20, and includes the State Board of Administration, the  
108 Executive Office of the Governor, the Fish and Wildlife  
109 Conservation Commission, the Parole Commission, the Agency for  
110 Health Care Administration, the Board of Regents, the State Board  
111 of Community Colleges, the Justice Administrative Commission, the  
112 capital collateral regional counsel ~~Representative~~, and separate  
113 budget entities placed for administrative purposes within a  
114 department.

115  
116       Reviser's note.--Amended to conform to the replacement

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117 of the capital collateral representative with capital  
118 collateral regional counsel in s. 27.701 by s. 1, ch.  
119 97-313, Laws of Florida.

120  
121 Section 4. Paragraph (a) of subsection (5) of section  
122 27.51, Florida Statutes, is amended to read:

123 27.51 Duties of public defender.--

124 (5)(a) When direct appellate proceedings prosecuted by a  
125 public defender on behalf of an accused and challenging a  
126 judgment of conviction and sentence of death terminate in an  
127 affirmance of such conviction and sentence, whether by the  
128 Florida Supreme Court or by the United States Supreme Court or by  
129 expiration of any deadline for filing such appeal in a state or  
130 federal court, the public defender shall notify the accused of  
131 his or her rights pursuant to Rule 3.850, Florida Rules of  
132 Criminal Procedure, including any time limits pertinent thereto,  
133 and shall advise such person that representation in any  
134 collateral proceedings is the responsibility of the capital  
135 collateral regional counsel ~~representative~~. The public defender  
136 shall then forward all original files on the matter to the  
137 capital collateral regional counsel ~~representative~~, retaining  
138 such copies for his or her files as may be desired. However, the  
139 trial court shall retain the power to appoint the public defender  
140 or other attorney not employed by the capital collateral regional  
141 counsel ~~representative~~ to represent such person in proceedings  
142 for relief by executive clemency pursuant to ss. 27.40 and  
143 27.5303.

144  
145 Reviser's note.--Amended to conform to the replacement

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146 of the capital collateral representative with capital  
147 collateral regional counsel in s. 27.701 by s. 1, ch.  
148 97-313, Laws of Florida.

149  
150 Section 5. Section 28.2222, Florida Statutes, is amended to  
151 read:

152 28.2222 Public records capital improvement plan.--On ~~or~~  
153 ~~before December 1, 1995, and on~~ or before December 1 of each year  
154 immediately preceding each year in which the Public Records  
155 Modernization Trust Fund is scheduled for review under s.  
156 19(f)(2), Art. III of the State Constitution, each clerk of the  
157 circuit court shall file a 4-year capital improvement plan with  
158 the President of the Senate and the Speaker of the House of  
159 Representatives. The plan must specify the clerk's goals for  
160 modernizing and improving the storage of, and public access to,  
161 public records and must state the manner in which moneys from the  
162 trust fund will be expended to obtain the stated objectives. The  
163 plan must specify the methodology used to determine the projected  
164 cost to implement the plan and to determine the projected revenue  
165 to meet the cost. ~~The plan due December 1, 1995, must report on~~  
166 ~~the period from November 4, 1996, through September 30, 1999.~~  
167 Each ~~subsequent~~ capital improvement plan must state the progress  
168 made in fulfilling the objectives listed in the previously filed  
169 capital improvement plan and must state the manner in which  
170 moneys from the trust fund were expended to reach those  
171 objectives.

172  
173 Reviser's note.--Amended to delete obsolete language  
174 relating to an initial public records capital

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175 improvement plan that was due December 1, 1995.

176

177 Section 6. Subsection (3) of section 39.3035, Florida

178 Statutes, is amended to read:

179 39.3035 Child advocacy centers; standards; state funding.--

180 (3) A child advocacy center within this state may not  
181 receive the funds generated pursuant to s. 938.10 ~~983.10~~, state  
182 or federal funds administered by a state agency, or any other  
183 funds appropriated by the Legislature unless all of the standards  
184 of subsection (1) are met and the screening requirement of  
185 subsection (2) is met. The Florida Network of Children's Advocacy  
186 Centers, Inc., shall be responsible for tracking and documenting  
187 compliance with subsections (1) and (2) for any of the funds it  
188 administers to member child advocacy centers.

189

190 Reviser's note.--Amended to correct a reference to  
191 nonexistent s. 983.10; s. 938.10 relates to added court  
192 costs imposed in certain cases involving crimes against  
193 minors.

194

195 Section 7. Paragraph (a) of subsection (5) of section  
196 43.16, Florida Statutes, is amended to read:

197 43.16 Justice Administrative Commission; membership, powers  
198 and duties.--

199 (5) The duties of the commission shall include, but not be  
200 limited to, the following:

201 (a) The maintenance of a central state office for  
202 administrative services and assistance when possible to and on  
203 behalf of the state attorneys and public defenders of Florida,



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204 the ~~office of~~ capital collateral regional counsel ~~representative~~  
205 of Florida, and the Guardian Ad Litem Program.

206  
207 Reviser's note.--Amended to conform to the replacement  
208 of the Office of Capital Collateral Representative with  
209 capital collateral regional counsel in s. 27.701 by s.  
210 1, ch. 97-313, Laws of Florida.

211  
212 Section 8. Subsection (3) of section 98.077, Florida  
213 Statutes, is amended to read:

214 98.077 Update of voter signature.--

215 (3) At least once during each general election year, the  
216 supervisor shall publish in a newspaper of general circulation or  
217 other newspaper in the county deemed appropriate by the  
218 supervisor a notice specifying when, where, or how a voter can  
219 update his or her signature that is on file and how a voter can  
220 obtain a voter registration application from a voter registration  
221 official ~~to do so~~.

222  
223 Reviser's note.--Amended to confirm the deletion by the  
224 editors of the words "to do so" following the word  
225 "official" to improve clarity.

226  
227 Section 9. Subsection (4) of section 101.051, Florida  
228 Statutes, is amended to read:

229 101.051 Electors seeking assistance in casting ballots;  
230 oath to be executed; forms to be furnished.--

231 (4) If an elector needs assistance in voting pursuant to  
232 the provisions of this section, the clerk or one of the

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233 inspectors shall require the elector requesting assistance in  
234 voting to take the following oath:

235 DECLARATION TO SECURE ASSISTANCE

236 State of Florida County of \_\_\_\_ Date \_\_\_\_ Precinct \_\_\_\_

237 I, (Print name) , swear or affirm that I am a registered  
238 elector and request assistance from (Print names) in voting  
239 at the (name of election) held on (date of election) .

240 (Signature of voter ~~assistor~~)

241 Sworn and subscribed to before me this \_\_\_\_ day of \_\_\_\_ ,  
242 (year) .

243 (Signature of Official Administering Oath)

244

245

246 Reviser's note.--Amended to confirm the substitution by  
247 the editors of the word "voter" for the word "assistor"  
248 to conform to context and correct a coding error.

249

250 Section 10. Subsection (4) of section 101.111, Florida  
251 Statutes, is amended to read:

252 101.111 Person desiring to vote may be challenged;  
253 challenger to execute oath; oath of person challenged;  
254 determination of challenge.--

255 (4) Any elector or poll watcher filing a frivolous  
256 challenge of any person's right to vote commits a misdemeanor of  
257 the first degree, punishable as provided in s. 775.082, or s.  
258 ~~775.083, or s. 775.084~~; however, electors or poll watchers shall  
259 not be subject to liability for any action taken in good faith  
260 and in furtherance of any activity or duty permitted of such  
261 electors or poll watchers by law. Each instance where any elector

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262 or poll watcher files a frivolous challenge of any person's right  
263 to vote constitutes a separate offense.

264  
265 Reviser's note.--Amended to delete an erroneous  
266 reference. Section 775.084 does not relate to  
267 misdemeanors; it relates to violent career criminals,  
268 habitual felony offenders, and habitual violent felony  
269 offenders.

270  
271 Section 11. Paragraph (f) of subsection (13) of section  
272 112.0455, Florida Statutes, is amended to read:

273 112.0455 Drug-Free Workplace Act.--

274 (13) RULES.--

275 (f) The Justice Administrative Commission may adopt rules  
276 on behalf of the state attorneys and public defenders of Florida,  
277 the ~~Office of~~ capital collateral regional counsel ~~Representative~~  
278 of Florida, and the Judicial Qualifications Commission.

279  
280 This section shall not be construed to eliminate the bargainable  
281 rights as provided in the collective bargaining process where  
282 applicable.

283  
284 Reviser's note.--Amended to conform to the replacement  
285 of the Office of Capital Collateral Representative with  
286 capital collateral regional counsel in s. 27.701 by s.  
287 1, ch. 97-313, Laws of Florida.

288  
289 Section 12. Paragraph (d) of subsection (7) of section  
290 112.061, Florida Statutes, is amended to read:

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291           112.061 Per diem and travel expenses of public officers,  
292 employees, and authorized persons.--

293           (7) TRANSPORTATION.--

294           (d)1. The use of privately owned vehicles for official  
295 travel in lieu of publicly owned vehicles or common carriers may  
296 be authorized by the agency head or his or her designee. Whenever  
297 travel is by privately owned vehicle, the traveler shall be  
298 entitled to a mileage allowance at a fixed rate of ~~25 cents per~~  
299 ~~mile for state fiscal year 1994-1995 and~~ 29 cents per mile  
300 ~~thereafter~~ or the common carrier fare for such travel, as  
301 determined by the agency head. Reimbursement for expenditures  
302 related to the operation, maintenance, and ownership of a vehicle  
303 shall not be allowed when privately owned vehicles are used on  
304 public business and reimbursement is made pursuant to this  
305 paragraph, except as provided in subsection (8).

306           2. All mileage shall be shown from point of origin to point  
307 of destination and, when possible, shall be computed on the basis  
308 of the current map of the Department of Transportation. Vicinity  
309 mileage necessary for the conduct of official business is  
310 allowable but must be shown as a separate item on the expense  
311 voucher.

312  
313           Reviser's note.--Amended to delete obsolete language  
314 relating to a mileage rate for the 1994-1995 fiscal  
315 year.

316  
317           Section 13. Subsection (1) of section 112.31901, Florida  
318 Statutes, is amended to read:

319           112.31901 Investigatory records.--

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(1) If certified pursuant to subsection (2), an investigatory record of the Chief Inspector General within the Executive Office of the Governor or of the employee designated by an agency head as the agency inspector general under s. 112.3189 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation ~~registration~~ ceases to be active, or a report detailing the investigation is provided to the Governor or the agency head, or 60 days from the inception of the investigation for which the record was made or received, whichever first occurs. Investigatory records are those records that are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, based on information compiled by the Chief Inspector General or by an agency inspector general, as named under the provisions of s. 112.3189, in the course of an investigation. An investigation is active if it is continuing with a reasonable, good faith anticipation of resolution and with reasonable dispatch.

Reviser's note.--Amended to correct an apparent drafting error and to conform to context.

Section 14. Paragraph (d) of subsection (4) and paragraph (a) of subsection (5) of section 119.071, Florida Statutes, are amended to read:

119.071 General exemptions from inspection or copying of public records.--

(4) AGENCY PERSONNEL INFORMATION.--

(d)1. The home addresses, telephone numbers, social

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349 security numbers, and photographs of active or former law  
 350 enforcement personnel, including correctional and correctional  
 351 probation officers, personnel of the Department of Children and  
 352 Family Services whose duties include the investigation of abuse,  
 353 neglect, exploitation, fraud, theft, or other criminal  
 354 activities, personnel of the Department of Health whose duties  
 355 are to support the investigation of child abuse or neglect, and  
 356 personnel of the Department of Revenue or local governments whose  
 357 responsibilities include revenue collection and enforcement or  
 358 child support enforcement; the home addresses, telephone numbers,  
 359 social security numbers, photographs, and places of employment of  
 360 the spouses and children of such personnel; and the names and  
 361 locations of schools and day care facilities attended by the  
 362 children of such personnel are exempt from s. 119.07(1). The home  
 363 addresses, telephone numbers, and photographs of firefighters  
 364 certified in compliance with s. 633.35; the home addresses,  
 365 telephone numbers, photographs, and places of employment of the  
 366 spouses and children of such firefighters; and the names and  
 367 locations of schools and day care facilities attended by the  
 368 children of such firefighters are exempt from s. 119.07(1). The  
 369 home addresses and telephone numbers of justices of the Supreme  
 370 Court, district court of appeal judges, circuit court judges, and  
 371 county court judges; the home addresses, telephone numbers, and  
 372 places of employment of the spouses and children of justices and  
 373 judges; and the names and locations of schools and day care  
 374 facilities attended by the children of justices and judges are  
 375 exempt from s. 119.07(1). The home addresses, telephone numbers,  
 376 social security numbers, and photographs of current or former  
 377 state attorneys, assistant state attorneys, statewide

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378 prosecutors, or assistant statewide prosecutors; the home  
379 addresses, telephone numbers, social security numbers,  
380 photographs, and places of employment of the spouses and children  
381 of current or former state attorneys, assistant state attorneys,  
382 statewide prosecutors, or assistant statewide prosecutors; and  
383 the names and locations of schools and day care facilities  
384 attended by the children of current or former state attorneys,  
385 assistant state attorneys, statewide prosecutors, or assistant  
386 statewide prosecutors are exempt from s. 119.07(1) and s. 24(a),  
387 Art. I of the State Constitution.

388       2. The home addresses, telephone numbers, social security  
389 numbers, and photographs of current or former human resource,  
390 labor relations, or employee relations directors, assistant  
391 directors, managers, or assistant managers of any local  
392 government agency or water management district whose duties  
393 include hiring and firing employees, labor contract negotiation,  
394 administration, or other personnel-related duties; the names,  
395 home addresses, telephone numbers, social security numbers,  
396 photographs, and places of employment of the spouses and children  
397 of such personnel; and the names and locations of schools and day  
398 care facilities attended by the children of such personnel are  
399 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
400 Constitution. This subparagraph is subject to the Open Government  
401 Sunset Review Act in accordance with s. 119.15 and shall stand  
402 repealed on October 2, 2006, unless reviewed and saved from  
403 repeal through reenactment by the Legislature.

404       3. The home addresses, telephone numbers, social security  
405 numbers, and photographs of current or former United States  
406 attorneys and assistant United States attorneys; the home

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407 addresses, telephone numbers, social security numbers,  
408 photographs, and places of employment of the spouses and children  
409 of current or former United States attorneys and assistant United  
410 States attorneys; and the names and locations of schools and day  
411 care facilities attended by the children of current or former  
412 United States attorneys and assistant United States attorneys are  
413 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
414 Constitution. This subparagraph is subject to the Open Government  
415 Sunset Review Act in accordance with s. 119.15 and shall stand  
416 repealed on October 2, 2009, unless reviewed and saved from  
417 repeal through reenactment by the Legislature.

418       4. The home addresses, telephone numbers, social security  
419 numbers, and photographs of current or former judges of United  
420 States Courts of Appeal, United States district judges, and  
421 United States magistrate judges; the home addresses, telephone  
422 numbers, social security numbers, photographs, and places of  
423 employment of the spouses and children of current or former  
424 judges of United States Courts of Appeal, United States district  
425 judges, and United States magistrate judges; and the names and  
426 locations of schools and day care facilities attended by the  
427 children of current or former judges of United States Courts of  
428 Appeal, United States district judges, and United States  
429 magistrate judges are exempt from s. 119.07(1) and s. 24(a), Art.  
430 I of the State Constitution. This subparagraph is subject to the  
431 Open Government Sunset Review Act in accordance with s. 119.15  
432 and shall stand repealed on October 2, 2009, unless reviewed and  
433 saved from repeal through reenactment by the Legislature.

434       5. The home addresses, telephone numbers, social security  
435 numbers, and photographs of current or former code enforcement



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436 officers; the names, home addresses, telephone numbers, social  
437 security numbers, photographs, and places of employment of the  
438 spouses and children of such persons; and the names and locations  
439 of schools and day care facilities attended by the children of  
440 such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of  
441 the State Constitution. This subparagraph is subject to the Open  
442 Government Sunset Review Act in accordance with s. 119.15 and  
443 shall stand repealed on October 2, 2006, unless reviewed and  
444 saved from repeal through reenactment by the Legislature.

445         6. The home addresses, telephone numbers, places of  
446 employment, and photographs of current or former guardians ad  
447 litem, as defined in s. 39.820, and the names, home addresses,  
448 telephone numbers, and places of employment of the spouses and  
449 children of such persons, are exempt from s. 119.07(1) ~~subsection~~  
450 ~~(1)~~ and s. 24(a), Art. I of the State Constitution, if the  
451 guardian ad litem provides a written statement that the guardian  
452 ad litem has made reasonable efforts to protect such information  
453 from being accessible through other means available to the  
454 public. This subparagraph is subject to the Open Government  
455 Sunset Review Act ~~of 1995~~ in accordance with s. 119.15 and shall  
456 stand repealed on October 2, 2010, unless reviewed and saved from  
457 repeal through reenactment by the Legislature.

458         7. An agency that is the custodian of the personal  
459 information specified in subparagraph 1., subparagraph 2.,  
460 subparagraph 3., subparagraph 4., subparagraph 5., or  
461 subparagraph 6. and that is not the employer of the officer,  
462 employee, justice, judge, or other person specified in  
463 subparagraph 1., subparagraph 2., subparagraph 3., subparagraph  
464 4., subparagraph 5., or subparagraph 6. shall maintain the exempt

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status of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

(5) OTHER PERSONAL INFORMATION.--

(a)1. The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes. The Legislature is also cognizant of the fact that the social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. The Legislature intends to monitor the commercial use of social security numbers held by state agencies in order to maintain a balanced public policy.

2. An agency shall not collect an individual's social security number unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented. An agency that collects social security numbers shall also segregate that number on a separate page from the rest of the record, or as otherwise

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494 appropriate, in order that the social security number be more  
495 easily redacted, if required, pursuant to a public records  
496 request. An agency collecting a person's social security number  
497 shall, upon that person's request, at the time of or prior to the  
498 actual collection of the social security number by that agency,  
499 provide that person with a statement of the purpose or purposes  
500 for which the social security number is being collected and used.  
501 Social security numbers collected by an agency shall not be used  
502 by that agency for any purpose other than the purpose stated.  
503 Social security numbers collected by an agency prior to May 13,  
504 2002, shall be reviewed for compliance with this subparagraph. If  
505 the collection of a social security number prior to May 13, 2002,  
506 is found to be unwarranted, the agency shall immediately  
507 discontinue the collection of social security numbers for that  
508 purpose.

509 3. Effective October 1, 2002, all social security numbers  
510 held by an agency are confidential and exempt from s. 119.07(1)  
511 and s. 24(a), Art. I of the State Constitution. This exemption  
512 applies to all social security numbers held by an agency before,  
513 on, or after the effective date of this exemption.

514 4. Social security numbers may be disclosed to another  
515 governmental entity or its agents, employees, or contractors if  
516 disclosure is necessary for the receiving entity to perform its  
517 duties and responsibilities. The receiving governmental entity  
518 and its agents, employees, and contractors shall maintain the  
519 confidential and exempt status of such numbers.

520 5. An agency shall not deny a commercial entity engaged in  
521 the performance of a commercial activity as defined in s. 14.203  
522 or its agents, employees, or contractors access to social

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523 security numbers, provided the social security numbers will be  
 524 used only in the normal course of business for legitimate  
 525 business purposes, and provided the commercial entity makes a  
 526 written request for social security numbers, verified as provided  
 527 in s. 92.525, legibly signed by an authorized officer, employee,  
 528 or agent of the commercial entity. The verified written request  
 529 must contain the commercial entity's name, business mailing and  
 530 location addresses, business telephone number, and a statement of  
 531 the specific purposes for which it needs the social security  
 532 numbers and how the social security numbers will be used in the  
 533 normal course of business for legitimate business purposes. The  
 534 aggregate of these requests shall serve as the basis for the  
 535 agency report required in subparagraph 8. An agency may request  
 536 any other information reasonably necessary to verify the identity  
 537 of the entity requesting the social security numbers and the  
 538 specific purposes for which such numbers will be used; however,  
 539 an agency has no duty to inquire beyond the information contained  
 540 in the verified written request. A legitimate business purpose  
 541 includes verification of the accuracy of personal information  
 542 received by a commercial entity in the normal course of its  
 543 business; use in a civil, criminal, or administrative proceeding;  
 544 use for insurance purposes; use in law enforcement and  
 545 investigation of crimes; use in identifying and preventing fraud;  
 546 use in matching, verifying, or retrieving information; and use in  
 547 research activities. A legitimate business purpose does not  
 548 include the display or bulk sale of social security numbers to  
 549 the general public or the distribution of such numbers to any  
 550 customer that is not identifiable by the distributor.

551         6. Any person who makes a false representation in order to

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552 obtain a social security number pursuant to this paragraph, or  
553 any person who willfully and knowingly violates this paragraph,  
554 commits a felony of the third degree, punishable as provided in  
555 s. 775.082 or s. 775.083. Any public officer who violates this  
556 paragraph is guilty of a noncriminal infraction, punishable by a  
557 fine not exceeding \$500. A commercial entity that provides access  
558 to public records containing social security numbers in  
559 accordance with this paragraph is not subject to the penalty  
560 provisions of this subparagraph.

561       7.a. On or after October 1, 2002, a person preparing or  
562 filing a document to be recorded in the official records by the  
563 county recorder as provided for in chapter 28 may not include any  
564 person's social security number in that document, unless  
565 otherwise expressly required by law. If a social security number  
566 is or has been included in a document presented to the county  
567 recorder for recording in the official records of the county  
568 before, on, or after October 1, 2002, it may be made available as  
569 part of the official record available for public inspection and  
570 copying.

571       b. Any person, or his or her attorney or legal guardian,  
572 has the right to request that a county recorder remove, from an  
573 image or copy of an official record placed on a county recorder's  
574 publicly available Internet website or a publicly available  
575 Internet website used by a county recorder to display public  
576 records or otherwise made electronically available to the general  
577 public by such recorder, his or her social security number  
578 contained in that official record. Such request must be made in  
579 writing, legibly signed by the requester and delivered by mail,  
580 facsimile, or electronic transmission, or delivered in person, to

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581 | the county recorder. The request must specify the identification  
582 | page number that contains the social security number to be  
583 | redacted. The county recorder has no duty to inquire beyond the  
584 | written request to verify the identity of a person requesting  
585 | redaction. A fee shall not be charged for the redaction of a  
586 | social security number pursuant to such request.

587 |       c. A county recorder shall immediately and conspicuously  
588 | post signs throughout his or her offices for public viewing and  
589 | shall immediately and conspicuously post ~~a notice~~, on any  
590 | Internet website or remote electronic site made available by the  
591 | county recorder and used for the ordering or display of official  
592 | records or images or copies of official records, a notice  
593 | stating, in substantially similar form, the following:

594 |       (I) On or after October 1, 2002, any person preparing or  
595 | filing a document for recordation in the official records may not  
596 | include a social security number in such document, unless  
597 | required by law.

598 |       (II) Any person has a right to request a county recorder to  
599 | remove, from an image or copy of an official record placed on a  
600 | county recorder's publicly available Internet website or on a  
601 | publicly available Internet website used by a county recorder to  
602 | display public records or otherwise made electronically available  
603 | to the general public, any social security number contained in an  
604 | official record. Such request must be made in writing and  
605 | delivered by mail, facsimile, or electronic transmission, or  
606 | delivered in person, to the county recorder. The request must  
607 | specify the identification page number that contains the social  
608 | security number to be redacted. No fee will be charged for the  
609 | redaction of a social security number pursuant to such a request.

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610           d. Until January 1, 2007, if a social security number, made  
611 confidential and exempt pursuant to this paragraph, or a complete  
612 bank account, debit, charge, or credit card number made exempt  
613 pursuant to paragraph (b) is or has been included in a court  
614 file, such number may be included as part of the court record  
615 available for public inspection and copying unless redaction is  
616 requested by the holder of such number, or by the holder's  
617 attorney or legal guardian, in a signed, legibly written request  
618 specifying the case name, case number, document heading, and page  
619 number. The request must be delivered by mail, facsimile,  
620 electronic transmission, or in person to the clerk of the circuit  
621 court. The clerk of the circuit court does not have a duty to  
622 inquire beyond the written request to verify the identity of a  
623 person requesting redaction. A fee may not be charged for the  
624 redaction of a social security number or a bank account, debit,  
625 charge, or credit card number pursuant to such request.

626           e. Any person who prepares or files a document to be  
627 recorded in the official records by the county recorder as  
628 provided in chapter 28 may not include a person's social security  
629 number or complete bank account, debit, charge, or credit card  
630 number in that document unless otherwise expressly required by  
631 law. Until January 1, 2007, if a social security number or a  
632 complete bank account, debit, charge, or credit card number is or  
633 has been included in a document presented to the county recorder  
634 for recording in the official records of the county, such number  
635 may be made available as part of the official record available  
636 for public inspection and copying. Any person, or his or her  
637 attorney or legal guardian, may request that a county recorder  
638 remove from an image or copy of an official record placed on a

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639 county recorder's publicly available Internet website, or a  
 640 publicly available Internet website used by a county recorder to  
 641 display public records outside the office or otherwise made  
 642 electronically available outside the county recorder's office to  
 643 the general public, his or her social security number or complete  
 644 account, debit, charge, or credit card number contained in that  
 645 official record. Such request must be legibly written, signed by  
 646 the requester, and delivered by mail, facsimile, electronic  
 647 transmission, or in person to the county recorder. The request  
 648 must specify the identification page number of the document that  
 649 contains the number to be redacted. The county recorder does not  
 650 have a duty to inquire beyond the written request to verify the  
 651 identity of a person requesting redaction. A fee may not be  
 652 charged for redacting such numbers.

653       f. Subparagraphs 5. 2- and 6. 3- do not apply to the clerks  
 654 of the court or the county recorder with respect to circuit court  
 655 records and official records.

656       g. On January 1, 2007, and thereafter, the clerk of the  
 657 circuit court and the county recorder must keep complete bank  
 658 account, debit, charge, and credit card numbers exempt as  
 659 provided for in paragraph (b), and must keep social security  
 660 numbers confidential and exempt as provided for in subparagraph  
 661 3., without any person having to request redaction.

662       8. Beginning January 31, 2004, and each January 31  
 663 thereafter, every agency must file a report with the Secretary of  
 664 State, the President of the Senate, and the Speaker of the House  
 665 of Representatives listing the identity of all commercial  
 666 entities that have requested social security numbers during the  
 667 preceding calendar year and the specific purpose or purposes



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668 | stated by each commercial entity regarding its need for social  
669 | security numbers. If no disclosure requests were made, the agency  
670 | shall so indicate.

671 | 9. Any affected person may petition the circuit court for  
672 | an order directing compliance with this paragraph.

673 | 10. This paragraph does not supersede any other applicable  
674 | public records exemptions existing prior to May 13, 2002, or  
675 | created thereafter.

676 | 11. This paragraph is subject to the Open Government Sunset  
677 | Review Act in accordance with s. 119.15 and shall stand repealed  
678 | October 2, 2007, unless reviewed and saved from repeal through  
679 | reenactment by the Legislature.

680 |  
681 | Reviser's note.--Paragraph (4)(d) is amended to confirm  
682 | the substitution by the editors of the cite to s.  
683 | 119.07(1) for a cite to "subsection (1)" [of s. 119.07]  
684 | to conform to the transfer of s. 119.07(6)(i) to s.  
685 | 119.071(4)(d) by s. 23, ch. 2005-251, Laws of Florida.  
686 | The paragraph is also amended to confirm a substitution  
687 | by the editors of a cite to the Open Government Sunset  
688 | Review Act for a reference to the Open Government  
689 | Sunset Review Act of 1995; the short title was revised  
690 | by s. 37, ch. 2005-251. Paragraph (5)(a) was amended to  
691 | confirm the deletion by the editors of the words "a  
692 | notice" following the word "post" to eliminate  
693 | redundancy. Paragraph (5)(a) was also amended to  
694 | correct a cross-reference; material referenced,  
695 | formerly at s. 119.0721(3) and (4), was relocated to s.  
696 | 119.071(5)(a)5. and 6., not s. 119.071(5)(a)2. and 3.

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697  
698       Section 15. Paragraph (a) of subsection (4) of section  
699 119.15, Florida Statutes, is amended to read:  
700       119.15 Legislative review of exemptions from public meeting  
701 and public records requirements.--  
702       (4)(a) A law that enacts a new exemption or substantially  
703 amends an existing exemption must state that the record or  
704 meeting is:  
705       1. Exempt from s. 24 ~~24(a)~~, Art. I of the State  
706 Constitution;  
707       2. Exempt from s. 119.07(1) or s. 286.011; and  
708       3. Repealed at the end of 5 years and that the exemption  
709 must be reviewed by the Legislature before the scheduled repeal  
710 date.  
711  
712       Reviser's note.--Amended to correct an apparent error  
713 and conform to the reference to s. 24, Art. I of the  
714 State Constitution in subsection (2). Paragraph (4)(a)  
715 references exemptions from records or meetings; records  
716 are covered in s. 24(a), Art. I; meetings are covered  
717 in s. 24(b), Art. I.  
718  
719       Section 16. Subsection (2) of section 161.72, Florida  
720 Statutes, is amended to read:  
721       161.72 Findings and intent.--  
722       (2) It is the intent of the Legislature to create the  
723 Oceans and Coastal ~~Resources~~ Council to assist the state in  
724 identifying new management strategies to achieve the goal of  
725 maximizing the protection and conservation of ocean and coastal

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resources while recognizing their economic benefits.

Reviser's note.--Amended to confirm the deletion by the editors of the word "Resources" from a reference to the Oceans and Coastal Resources Council to conform to the name of the Oceans and Coastal Council as referenced in s. 161.71(2), which defines the council, and in s. 161.73, which provides for creation of the council.

Section 17. Paragraph (n) of subsection (2) of section 161.74, Florida Statutes, is amended to read:

161.74 Responsibilities.--

(2) RESEARCH PLAN.--The council must complete a Florida Oceans and Coastal Scientific Research Plan which shall be used by the Legislature in making funding decisions. The plan must recommend priorities for scientific research projects. The plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by January 15, 2006. Thereafter, annual updates to the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year. The research projects contained in the plan must meet at least one of the following objectives:

(n) Developing a statewide analysis of the economic value associated with ocean and coastal resources, developing economic baseline data, methodologies, and consistent measures of oceans and coastal resource economic activity and value, and developing reports that educate Floridians, the United States Commission on National Ocean Policy ~~Commission~~, local, state, and federal agencies and others on the importance of ocean and coastal

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755 resources.

756

757       Reviser's note.--Amended to confirm the substitution by  
758       the editors of a reference to the United States  
759       Commission on Ocean Policy for a reference to the  
760       National Ocean Policy Commission to conform to the  
761       official name of the commission.

762

763       Section 18. Paragraph (b) of subsection (16) of section  
764       163.3180, Florida Statutes, is amended to read:

765       163.3180 Concurrency.--

766       (16) It is the intent of the Legislature to provide a  
767       method by which the impacts of development on transportation  
768       facilities can be mitigated by the cooperative efforts of the  
769       public and private sectors. The methodology used to calculate  
770       proportionate fair-share mitigation under this section shall be  
771       as provided for in subsection (12).

772       (b)1. In its transportation concurrency management system,  
773       a local government shall, by December 1, 2006, include  
774       methodologies that will be applied to calculate proportionate  
775       fair-share mitigation. A developer may choose to satisfy all  
776       transportation concurrency requirements by contributing or paying  
777       proportionate fair-share mitigation if transportation facilities  
778       or facility segments identified as mitigation for traffic impacts  
779       are specifically identified for funding in the 5-year schedule of  
780       capital improvements in the capital improvements element of the  
781       local plan or the long-term concurrency management system or if  
782       such contributions or payments to such facilities or segments are  
783       reflected in the 5-year schedule of capital improvements in the

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784 next regularly scheduled update of the capital improvements  
785 element. Updates to the 5-year capital improvements element which  
786 reflect proportionate fair-share contributions may not be found  
787 not in compliance based on ss. 163.3164(32) ~~163.164(32)~~ and  
788 163.3177(3) if additional contributions, payments or funding  
789 sources are reasonably anticipated during a period not to exceed  
790 10 years to fully mitigate impacts on the transportation  
791 facilities.

792         2. Proportionate fair-share mitigation shall be applied as  
793 a credit against impact fees to the extent that all or a portion  
794 of the proportionate fair-share mitigation is used to address the  
795 same capital infrastructure improvements contemplated by the  
796 local government's impact fee ordinance.

797  
798         Reviser's note.--Amended to correct a reference to  
799 nonexistent s. 163.164(32); s. 163.3164(32), relating  
800 to financial feasibility, conforms to context.

801  
802         Section 19. Paragraph (b) of subsection (1) and subsections  
803 (4) and (17) of section 163.3184, Florida Statutes, are amended  
804 to read:

805         163.3184 Process for adoption of comprehensive plan or plan  
806 amendment.--

807         (1) DEFINITIONS.--As used in this section, the term:

808         (b) "In compliance" means consistent with the requirements  
809 of ss. 163.3177, ~~163.31776~~, when a local government adopts an  
810 educational facilities element, 163.3178, 163.3180, 163.3191, and  
811 163.3245, with the state comprehensive plan, with the appropriate  
812 strategic regional policy plan, and with chapter 9J-5, Florida

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813 Administrative Code, where such rule is not inconsistent with  
814 this part and with the principles for guiding development in  
815 designated areas of critical state concern and with part III of  
816 chapter 369, where applicable.

817       (4) INTERGOVERNMENTAL REVIEW.--The governmental agencies  
818 specified in paragraph (3)(a) shall provide comments to the state  
819 land planning agency within 30 days after receipt by the state  
820 land planning agency of the complete proposed plan amendment. If  
821 the plan or plan amendment includes or relates to the public  
822 school facilities element pursuant to s. 163.3177(12) ~~163.31776~~,  
823 the state land planning agency shall submit a copy to the Office  
824 of Educational Facilities of the Commissioner of Education for  
825 review and comment. The appropriate regional planning council  
826 shall also provide its written comments to the state land  
827 planning agency within 30 days after receipt by the state land  
828 planning agency of the complete proposed plan amendment and shall  
829 specify any objections, recommendations for modifications, and  
830 comments of any other regional agencies to which the regional  
831 planning council may have referred the proposed plan amendment.  
832 Written comments submitted by the public within 30 days after  
833 notice of transmittal by the local government of the proposed  
834 plan amendment will be considered as if submitted by governmental  
835 agencies. All written agency and public comments must be made  
836 part of the file maintained under subsection (2).

837       (17) A local government that has adopted a community vision  
838 and urban service boundary under s. 163.3177(13) and (14)  
839 ~~163.31773(13) and (14)~~ may adopt a plan amendment related to map  
840 amendments solely to property within an urban service boundary in  
841 the manner described in subsections (1), (2), (7), (14), (15),

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842 and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that  
843 state and regional agency review is eliminated. The department  
844 may not issue an objections, recommendations, and comments report  
845 on proposed plan amendments or a notice of intent on adopted plan  
846 amendments; however, affected persons, as defined by paragraph  
847 (1)(a), may file a petition for administrative review pursuant to  
848 the requirements of s. 163.3187(3)(a) to challenge the compliance  
849 of an adopted plan amendment. This subsection does not apply to  
850 any amendment within an area of critical state concern, to any  
851 amendment that increases residential densities allowable in high-  
852 hazard coastal areas as defined in s. 163.3178(2)(h), or to a  
853 text change to the goals, policies, or objectives of the local  
854 government's comprehensive plan. Amendments submitted under this  
855 subsection are exempt from the limitation on the frequency of  
856 plan amendments in s. 163.3187.

857  
858 Reviser's note.--Paragraph (1)(b) and subsection (4)  
859 are amended to conform to the repeal of s. 163.31776 by  
860 s. 3, ch. 2005-290, Laws of Florida, and the placement  
861 of material relating to a public school facilities  
862 element in s. 163.3177(12). Subsection (17) is amended  
863 to correct a reference to nonexistent s. 163.31773(13)  
864 and (14); s. 163.3177(13) and (14) relate to community  
865 vision and urban service boundaries, respectively.

866  
867 Section 20. Paragraph (1) of subsection (1) of section  
868 163.3187, Florida Statutes, is amended to read:  
869 163.3187 Amendment of adopted comprehensive plan.--  
870 (1) Amendments to comprehensive plans adopted pursuant to

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871 | this part may be made not more than two times during any calendar  
872 | year, except:

873 |       (1) A comprehensive plan amendment to adopt a public  
874 | educational facilities element pursuant to s. 163.3177(12)  
875 | ~~163.31776~~ and future land-use-map amendments for school siting  
876 | may be approved notwithstanding statutory limits on the frequency  
877 | of adopting plan amendments.

878 |  
879 |       Reviser's note.--Amended to conform to the repeal of s.  
880 | 163.31776 by s. 3, ch. 2005-290, Laws of Florida, and  
881 | the placement of material relating to a public school  
882 | facilities element in s. 163.3177(12).

883 |  
884 |       Section 21. Subsection (13) of section 201.15, Florida  
885 | Statutes, is amended to read:

886 |       201.15 Distribution of taxes collected.--All taxes  
887 | collected under this chapter shall be distributed as follows and  
888 | shall be subject to the service charge imposed in s. 215.20(1),  
889 | except that such service charge shall not be levied against any  
890 | portion of taxes pledged to debt service on bonds to the extent  
891 | that the amount of the service charge is required to pay any  
892 | amounts relating to the bonds:

893 |       (13) The distribution of proceeds deposited into the Water  
894 | Management Lands Trust Fund and the Conservation and Recreation  
895 | Lands Trust Fund, pursuant to subsections (4) and (5), shall not  
896 | be used for land acquisition, but may be used for preacquisition  
897 | costs associated with land purchases. The Legislature intends  
898 | that the Florida Forever program supplant the acquisition  
899 | programs formerly authorized under ss. 259.032 and 373.59. ~~Prior~~



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~~to the 2005 Regular Session of the Legislature, the Acquisition and Restoration Council shall review and make recommendations to the Legislature concerning the need to repeal this provision. Based on these recommendations, the Legislature shall review the need to repeal this provision during the 2005 Regular Session.~~

Reviser's note.--Amended to delete obsolete language relating to recommendations and a review to be completed in 2005.

Section 22. Effective July 1, 2007, subsections (10) and (13) of section 201.15, Florida Statutes, as amended by section 1 of chapter 2005-92, Laws of Florida, are amended to read:

201.15 Distribution of taxes collected.--All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(10) The lesser ~~lesser~~ of eight and sixty-six hundredths percent of the remaining taxes collected under this chapter or \$136 million in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing

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929 Trust Fund was created and exists by law.

930       (b) Eighty-seven and one-half percent of that amount shall

931 be distributed to the Local Government Housing Trust Fund and

932 shall be used for the purposes for which the Local Government

933 Housing Trust Fund was created and exists by law. Funds from this

934 category may also be used to provide for state and local services

935 to assist the homeless.

936       (13) The distribution of proceeds deposited into the Water

937 Management Lands Trust Fund and the Conservation and Recreation

938 Lands Trust Fund, pursuant to subsections (4) and (5), shall not

939 be used for land acquisition, but may be used for preacquisition

940 costs associated with land purchases. The Legislature intends

941 that the Florida Forever program supplant the acquisition

942 programs formerly authorized under ss. 259.032 and 373.59. ~~Prior~~

943 ~~to the 2005 Regular Session of the Legislature, the Acquisition~~

944 ~~and Restoration Council shall review and make recommendations to~~

945 ~~the Legislature concerning the need to repeal this provision.~~

946 ~~Based on these recommendations, the Legislature shall review the~~

947 ~~need to repeal this provision during the 2005 Regular Session.~~

948

949       Reviser's note.--Subsection (10) is amended to confirm

950 the substitution by the editors of the word "lesser"

951 for the word "lessor" to conform to context. Subsection

952 (13) is amended to delete obsolete language relating to

953 recommendations and a review to be completed in 2005.

954

955       Section 23. Paragraph (j) of subsection (3) of section

956 202.26, Florida Statutes, is amended to read:

957       202.26 Department powers.--

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958           (3) To administer the tax imposed by this chapter, the  
959 department may adopt rules relating to:

960           (j) The types of books and records kept in the regular  
961 course of business which must be available during an audit of a  
962 dealer's books and records when the dealer has made an allocation  
963 or attribution pursuant to the definition of sales prices in s.  
964 202.11(13)(b)8. ~~202.11(14)(b)8.~~ and examples of methods for  
965 determining the reasonableness thereof. Books and records kept in  
966 the regular course of business include, but are not limited to,  
967 general ledgers, price lists, cost records, customer billings,  
968 billing system reports, tariffs, and other regulatory filings and  
969 rules of regulatory authorities. Such records may be required to  
970 be made available to the department in an electronic format when  
971 so kept by the dealer. The dealer may support the allocation of  
972 charges with books and records kept in the regular course of  
973 business covering the dealer's entire service area, including  
974 territories outside this state. During an audit, the department  
975 may reasonably require production of any additional books and  
976 records found necessary to assist in its determination.

977  
978           Reviser's note.--Amended to correct a reference and  
979 conform to context. Section 202.11(14) was redesignated  
980 as s. 202.11(13) by s. 1, ch. 2005-187, Laws of  
981 Florida.

982  
983           Section 24. Section 215.965, Florida Statutes, is amended  
984 to read:

985           215.965 Disbursement of state moneys.--Except as provided  
986 in s. 17.076, s. 253.025(14), s. 259.041(18), s. 717.124(4)(b)

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987 and (c) 717.124(5), s. 732.107(5), or s. 733.816(5), all moneys  
988 in the State Treasury shall be disbursed by state warrant, drawn  
989 by the Chief Financial Officer upon the State Treasury and  
990 payable to the ultimate beneficiary. This authorization shall  
991 include electronic disbursement.

992  
993 Reviser's note.--Amended to conform to the  
994 redesignation of s. 717.124(5) as s. 717.124(4)(b) and  
995 (c) by s. 121, ch. 2004-390, Laws of Florida.

996  
997 Section 25. Paragraph (a) of subsection (5) of section  
998 216.136, Florida Statutes, is amended to read:

999 216.136 Consensus estimating conferences; duties and  
1000 principals.--

1001 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.--

1002 (a) Duties.--The Criminal Justice Estimating Conference  
1003 shall:

1004 1. Develop such official information relating to the  
1005 criminal justice system, including forecasts of prison admissions  
1006 and population and of supervised felony offender admissions and  
1007 population, as the conference determines is needed for the state  
1008 planning and budgeting system.

1009 2. Develop such official information relating to the number  
1010 of eligible discharges and the projected number of civil  
1011 commitments for determining space needs pursuant to the civil  
1012 proceedings provided under part V of chapter 394.

1013 3. Develop official information relating to the number of  
1014 sexual offenders and sexual predators who are required by law to  
1015 be placed on community control, probation, or conditional release

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1016 who are subject to electronic monitoring. In addition, the Office  
1017 of Economic and Demographic Research shall study the factors  
1018 relating to the sentencing of sex offenders from the point of  
1019 arrest through the imposition of sanctions by the sentencing  
1020 court, including original charges, plea negotiations, trial  
1021 dispositions, and sanctions. The Department of Corrections, the  
1022 Office of the State Courts Administrator, the Florida Department  
1023 of Law Enforcement, and the state attorneys shall provide  
1024 information deemed necessary for the study. The final report  
1025 shall be provided to the President of the Senate and the Speaker  
1026 of the House of Representatives by March 1, 2006.

1027  
1028       Reviser's note.--Amended to confirm the insertion by  
1029       the editors of the words "of Representatives" following  
1030       the word "House" to conform to the complete name of the  
1031       legislative body.

1032  
1033       Section 26. Paragraph (c) of subsection (1) of section  
1034       253.01, Florida Statutes, is amended to read:

1035       253.01 Internal Improvement Trust Fund established.--  
1036       (1)

1037       (c) Notwithstanding any provisions of law to the contrary,  
1038       if title to any state-owned lands is vested in the Board of  
1039       Trustees of the Internal Improvement Trust Fund and the lands are  
1040       located within the Everglades Agricultural Area, then all  
1041       proceeds from the sale of any such lands shall be deposited into  
1042       the Internal Improvement Trust Fund. The provisions of this  
1043       paragraph shall not apply to those lands acquired pursuant to s.  
1044       ~~ss.~~ 607.0505, and former s. 620.192, or chapter 895.

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1045  
 1046           Reviser's note.--Amended to clarify the status of  
 1047           referenced s. 620.192, which was repealed by s. 25, ch.  
 1048           2005-267, Laws of Florida.  
 1049  
 1050           Section 27. Subsection (12) of section 253.03, Florida  
 1051           Statutes, is amended to read:  
 1052           253.03 Board of trustees to administer state lands; lands  
 1053           enumerated.--  
 1054           (12) The Board of Trustees of the Internal Improvement  
 1055           Trust Fund is hereby authorized to administer, manage, control,  
 1056           conserve, protect, and sell all real property forfeited to the  
 1057           state pursuant to ss. 895.01-895.09 or acquired by the state  
 1058           pursuant to s. 607.0505 or former s. 620.192. The board is  
 1059           directed to immediately determine the value of all such property  
 1060           and shall ascertain whether the property is in any way  
 1061           encumbered. If the board determines that it is in the best  
 1062           interest of the state to do so, funds from the Internal  
 1063           Improvement Trust Fund may be used to satisfy any such  
 1064           encumbrances. If forfeited property receipts are not sufficient  
 1065           to satisfy encumbrances on the property and expenses permitted  
 1066           under this section, funds from the Land Acquisition Trust Fund  
 1067           may be used to satisfy any such encumbrances and expenses. All  
 1068           property acquired by the board pursuant to s. 607.0505, former s.  
 1069           620.192, or ss. 895.01-895.09 shall be sold as soon as  
 1070           commercially feasible unless the Attorney General recommends and  
 1071           the board determines that retention of the property in public  
 1072           ownership would effectuate one or more of the following policies  
 1073           of statewide significance: protection or enhancement of

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1074 floodplains, marshes, estuaries, lakes, rivers, wilderness areas,  
 1075 wildlife areas, wildlife habitat, or other environmentally  
 1076 sensitive natural areas or ecosystems; or preservation of  
 1077 significant archaeological or historical sites identified by the  
 1078 Secretary of State. In such event the property shall remain in  
 1079 the ownership of the board, to be controlled, managed, and  
 1080 disposed of in accordance with this chapter, and the Internal  
 1081 Improvement Trust Fund shall be reimbursed from the Land  
 1082 Acquisition Trust Fund, or other appropriate fund designated by  
 1083 the board, for any funds expended from the Internal Improvement  
 1084 Trust Fund pursuant to this subsection in regard to such  
 1085 property. Upon the recommendation of the Attorney General, the  
 1086 board may reimburse the investigative agency for its  
 1087 investigative expenses, costs, and attorneys' fees, and may  
 1088 reimburse law enforcement agencies for actual expenses incurred  
 1089 in conducting investigations leading to the forfeiture of such  
 1090 property from funds deposited in the Internal Improvement Trust  
 1091 Fund of the Department of Environmental Protection. The proceeds  
 1092 of the sale of property acquired under s. 607.0505, former s.  
 1093 620.192, or ss. 895.01-895.09 shall be distributed as follows:

1094 (a) After satisfaction of any valid claims arising under  
 1095 the provisions of s. 895.09(1)(a) or (b), any moneys used to  
 1096 satisfy encumbrances and expended as costs of administration,  
 1097 appraisal, management, conservation, protection, sale, and real  
 1098 estate sales services and any interest earnings lost to the Land  
 1099 Acquisition Trust Fund as of a date certified by the Department  
 1100 of Environmental Protection shall be replaced first in the Land  
 1101 Acquisition Trust Fund, if those funds were used, and then in the  
 1102 Internal Improvement Trust Fund; and

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1103           (b)   The remainder shall be distributed as set forth in s.  
1104   895.09.

1105  
1106           Reviser's note.--Amended to clarify the status of  
1107   referenced s. 620.192, which was repealed by s. 25, ch.  
1108   2005-267, Laws of Florida.

1109  
1110           Section 28. Subsection (1) of section 253.74, Florida  
1111   Statutes, is amended to read:

1112           253.74 Penalties.--

1113           (1) Any person who conducts aquaculture activities in  
1114   excess of those authorized by the board or who conducts such  
1115   activities on state-owned submerged lands without having  
1116   previously obtained an authorization from the board commits a  
1117   misdemeanor and shall be subject to imprisonment for not more  
1118   than 6 months or fine of not more than \$1,000, or both. In  
1119   addition to such fine and imprisonment, all works, improvements,  
1120   and animal and plant life involved in the project, may be  
1121   forfeited to the state.

1122  
1123           Reviser's note.--Amended to improve clarity.

1124  
1125           Section 29. Section 267.0619, Florida Statutes, is  
1126   reenacted to read:

1127           267.0619 Historical Museum Grants.--The division may  
1128   conduct a program to provide:

1129           (1)(a) Grants from the Historical Resources Operating Trust  
1130   Fund, including matching grants, to a department or agency of the  
1131   state; a unit of county, municipal, or other local government; or



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1132 | a public or private profit or nonprofit corporation, partnership,  
1133 | or other organization to assist in the development of public  
1134 | educational exhibits relating to the historical resources of  
1135 | Florida; and

1136 |       (b) Grants from the Historical Resources Operating Trust  
1137 | Fund to Florida history museums that are not state-operated to  
1138 | assist such museums in paying for operating costs.

1139 |       (2) In order to be eligible to receive a grant from the  
1140 | trust fund to assist in paying operating costs, a Florida history  
1141 | museum must fulfill the following criteria:

1142 |       (a) The mission of the museum must relate directly and  
1143 | primarily to the history of Florida. If the museum has more than  
1144 | one mission, the museum is eligible to receive a grant for that  
1145 | portion of the operating costs which is reasonably attributable  
1146 | to its mission relating to the history of Florida;

1147 |       (b) The museum must have been operating and open to the  
1148 | public for at least 180 days each year during the 2-year period  
1149 | immediately preceding the date upon which the museum applies for  
1150 | the grant;

1151 |       (c) The museum must be open and providing museum services  
1152 | to the public for at least 180 days each year; and

1153 |       (d) The museum must currently employ, and must have  
1154 | employed during the 2-year period immediately preceding the date  
1155 | upon which the museum applies for the grant, at least one full-  
1156 | time staff member or the equivalent thereof whose primary  
1157 | responsibility is to acquire, maintain, and exhibit to the public  
1158 | objects that are owned by, or are on loan to, the museum.

1159 |       (3) An application for a grant must be made to the division  
1160 | on a form provided by the division. The division shall adopt

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1161 rules prescribing categories of grants, application requirements,  
1162 criteria and procedures for the review and evaluation of  
1163 applications, and other procedures necessary for the  
1164 administration of the program, subject to the requirements of  
1165 this section. Grant review panels appointed by the Secretary of  
1166 State and chaired by a member of the Florida Historical  
1167 Commission or a designee appointed by the commission's presiding  
1168 officer shall review each application for a museum grant-in-aid.  
1169 The review panel shall submit to the Secretary of State for  
1170 approval lists of all applications that are recommended by the  
1171 panel for the award of grants, arranged in order of priority. The  
1172 division may award a grant to a Florida history museum only if  
1173 the award has been approved by the Secretary of State.

1174 (4) Money received as an appropriation or contribution to  
1175 the grants program must be deposited into the Historical  
1176 Resources Operating Trust Fund. Money appropriated from general  
1177 revenue to the trust fund for the program may not be granted to a  
1178 private for-profit museum. Money appropriated from any source to  
1179 the trust fund for the program may not be granted to pay the cost  
1180 of locating, identifying, evaluating, acquiring, preserving,  
1181 protecting, restoring, rehabilitating, stabilizing, or excavating  
1182 an archaeological or historic site or a historic building or the  
1183 planning of any of those activities.

1184 (5) The division may grant moneys quarterly from the  
1185 Historical Resources Operating Trust Fund to history museums in  
1186 advance of an exhibit or program for which the moneys are  
1187 granted.

1188

1189 Reviser's note.--Section 16, ch. 2005-207, Laws of

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1190 Florida, amended subsection (3) without publishing the  
1191 introductory paragraph to the section. Absent  
1192 affirmative evidence of legislative intent to repeal  
1193 the introductory language, it is reenacted here to  
1194 confirm that the omission was not intended.

1195  
1196 Section 30. Subsection (1) of section 316.272, Florida  
1197 Statutes, is amended to read:

1198 316.272 Exhaust systems, prevention of noise.--

1199 (1) Every motor vehicle shall at all times be equipped with  
1200 an exhaust system in good working order and in constant  
1201 operation, including muffler, manifold pipe, and tailpiping to  
1202 prevent excessive or unusual noise. In no event shall an exhaust  
1203 system allow noise at a level which exceeds a maximum decibel  
1204 level to be established by regulation of the Department of  
1205 Environmental Protection as provided in s. 403.061(11)  
1206 ~~403.061(13)~~ in cooperation with the Department of Highway Safety  
1207 and Motor Vehicles. No person shall use a muffler cutout, bypass  
1208 or similar device upon a vehicle on a highway.

1209  
1210 Reviser's note.--Amended to conform to the current  
1211 location within s. 403.061 of material relating to  
1212 noise pollution; s. 14, ch. 78-95, Laws of Florida,  
1213 deleted then-existing subsections (8) and (9), and  
1214 subsection (13) became subsection (11).

1215  
1216 Section 31. Subsection (1) of section 320.0843, Florida  
1217 Statutes, is amended to read:

1218 320.0843 License plates for persons with disabilities

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1219 eligible for permanent disabled parking permits.--

1220       (1) Any owner or lessee of a motor vehicle who resides in

1221 this state and qualifies for a disabled parking permit under s.

1222 320.0848(2), upon application to the department and payment of

1223 the license tax for a motor vehicle registered under s.

1224 320.08(2), (3)(a), (b), (c), or (e), (4)(a) or (b), (6)(a), or

1225 (9)(c) or (d), shall be issued a license plate as provided by s.

1226 320.06 which, in lieu of the serial number prescribed by s.

1227 320.06, shall be stamped with the international wheelchair user

1228 symbol after the serial number of the license plate. The license

1229 plate entitles the person to all privileges afforded by a parking

1230 permit issued under s. 320.0848. When more than ~~that~~ one

1231 registrant is listed on the registration issued under this

1232 section, the eligible applicant shall be noted on the

1233 registration certificate.

1234

1235       Reviser's note.--Amended to confirm the substitution by

1236 the editors of the word "than" for the word "that" to

1237 conform to context.

1238

1239       Section 32. Paragraph (b) of subsection (9) of section

1240 320.27, Florida Statutes, is amended to read:

1241       320.27 Motor vehicle dealers.--

1242       (9) DENIAL, SUSPENSION, OR REVOCATION.--

1243       (b) The department may deny, suspend, or revoke any license

1244 issued hereunder or under the provisions of s. 320.77 or s.

1245 320.771 upon proof that a licensee has committed, with sufficient

1246 frequency so as to establish a pattern of wrongdoing on the part

1247 of a licensee, violations of one or more of the following

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1248 activities:

1249       1. Representation that a demonstrator is a new motor  
1250 vehicle, or the attempt to sell or the sale of a demonstrator as  
1251 a new motor vehicle without written notice to the purchaser that  
1252 the vehicle is a demonstrator. For the purposes of this section,  
1253 a "demonstrator," a "new motor vehicle," and a "used motor  
1254 vehicle" shall be defined as under s. 320.60.

1255       2. Unjustifiable refusal to comply with a licensee's  
1256 responsibility under the terms of the new motor vehicle warranty  
1257 issued by its respective manufacturer, distributor, or importer.  
1258 However, if such refusal is at the direction of the manufacturer,  
1259 distributor, or importer, such refusal shall not be a ground  
1260 under this section.

1261       3. Misrepresentation or false, deceptive, or misleading  
1262 statements with regard to the sale or financing of motor vehicles  
1263 which any motor vehicle dealer has, or causes to have,  
1264 advertised, printed, displayed, published, distributed,  
1265 broadcast, televised, or made in any manner with regard to the  
1266 sale or financing of motor vehicles.

1267       4. Failure by any motor vehicle dealer to provide a  
1268 customer or purchaser with an odometer disclosure statement and a  
1269 copy of any bona fide written, executed sales contract or  
1270 agreement of purchase connected with the purchase of the motor  
1271 vehicle purchased by the customer or purchaser.

1272       5. Failure of any motor vehicle dealer to comply with the  
1273 terms of any bona fide written, executed agreement, pursuant to  
1274 the sale of a motor vehicle.

1275       6. Failure to apply for transfer of a title as prescribed  
1276 in s. 319.23(6).

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1277           7. Use of the dealer license identification number by any  
1278 person other than the licensed dealer or his or her designee.  
1279           8. Failure to continually meet the requirements of the  
1280 licensure law.  
1281           9. Representation to a customer or any advertisement to the  
1282 public representing or suggesting that a motor vehicle is a new  
1283 motor vehicle if such vehicle lawfully cannot be titled in the  
1284 name of the customer or other member of the public by the seller  
1285 using a manufacturer's statement of origin as permitted in s.  
1286 319.23(1).  
1287           10. Requirement by any motor vehicle dealer that a customer  
1288 or purchaser accept equipment on his or her motor vehicle which  
1289 was not ordered by the customer or purchaser.  
1290           11. Requirement by any motor vehicle dealer that any  
1291 customer or purchaser finance a motor vehicle with a specific  
1292 financial institution or company.  
1293           12. Requirement by any motor vehicle dealer that the  
1294 purchaser of a motor vehicle contract with the dealer for  
1295 physical damage insurance.  
1296           13. Perpetration of a fraud upon any person as a result of  
1297 dealing in motor vehicles, including, without limitation, the  
1298 misrepresentation to any person by the licensee of the licensee's  
1299 relationship to any manufacturer, importer, or distributor.  
1300           14. Violation of any of the provisions of s. 319.35 by any  
1301 motor vehicle dealer.  
1302           15. Sale by a motor vehicle dealer of a vehicle offered in  
1303 trade by a customer prior to consummation of the sale, exchange,  
1304 or transfer of a newly acquired vehicle to the customer, unless  
1305 the customer provides written authorization for the sale of the

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1306 trade-in vehicle prior to delivery of the newly acquired vehicle.

1307 16. Willful failure to comply with any administrative rule  
1308 adopted by the department or the provisions of s. 320.131(8).

1309 17. Violation of chapter 319, this chapter, or ss. 559.901-  
1310 559.9221, which has to do with dealing in or repairing motor  
1311 vehicles or mobile homes. Additionally, in the case of used motor  
1312 vehicles, the willful violation of the federal law and rule in 15  
1313 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer  
1314 sales window form.

1315 18. Failure to maintain evidence of notification to the  
1316 owner or coowner of a vehicle regarding registration or titling  
1317 fees owed ~~owned~~ as required in s. 320.02(17) ~~320.02(19)~~.

1318  
1319 Reviser's note.--Amended to conform to the  
1320 redesignation of s. 320.02(19) as created by s. 14, ch.  
1321 2005-164, Laws of Florida, as s. 320.02(17) by the  
1322 reviser as a result of the redesignation of existing s.  
1323 320.02(17) and (18) as a portion of s. 320.02(16) by s.  
1324 1, ch. 2005-254, Laws of Florida. The word "owed" was  
1325 substituted for the word "owned" to conform to context.  
1326

1327 Section 33. Subsection (8) of section 322.121, Florida  
1328 Statutes, is amended to read:

1329 322.121 Periodic reexamination of all drivers.--

1330 (8) In addition to any other examination authorized by this  
1331 section, an applicant for a renewal of an endorsement issued  
1332 under s. 322.57(1)(a), (b), ~~(c)~~, (d), ~~or (e)~~, or (f) may be  
1333 required to complete successfully an examination of his or her  
1334 knowledge regarding state and federal rules, regulations, and

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1335 laws, governing the type of vehicle which he or she is seeking an  
1336 endorsement to operate.

1337  
1338       Reviser's note.--Amended to conform to the  
1339       redesignation of s. 322.57(1)(c), (d), and (e) as s.  
1340       322.57(1)(d), (e), and (f) by s. 90, ch. 2005-164, Laws  
1341       of Florida.

1342  
1343       Section 34. Subsection (3) of section 337.195, Florida  
1344 Statutes, is amended to read:

1345       337.195 Limits on liability.--

1346       (3) In all cases involving personal injury, property  
1347 damage, or death, a person or entity who contracts to prepare or  
1348 provide engineering plans for the construction or repair of a  
1349 highway, road, street, bridge, or other transportation facility  
1350 for the Department of Transportation shall be presumed to have  
1351 prepared such engineering plans using the degree of care and  
1352 skill ordinarily exercised by other engineers in the field under  
1353 similar conditions and in similar localities and with due regard  
1354 for acceptable engineering standards and principles if the  
1355 engineering plans conformed to the Department of Transportation's  
1356 design standards material to the condition or defect that was the  
1357 proximate cause of the personal ~~person~~ injury, property damage,  
1358 or death. This presumption can be overcome only upon a showing of  
1359 the person's or entity's gross negligence in the preparation of  
1360 the engineering plans and shall not be interpreted or construed  
1361 to alter or affect any claim of the Department of Transportation  
1362 against such person or entity. The limitation on liability  
1363 contained in this subsection shall not apply to any hidden or



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1364 | undiscoverable condition created by the engineer. This subsection  
1365 | does not affect any claim of any entity against such engineer or  
1366 | engineering firm, which claim is associated with such entity's  
1367 | facilities on or in Department of Transportation roads or other  
1368 | transportation facilities.

1370 |       Reviser's note.--Amended to confirm the substitution by  
1371 |       the editors of the word "personal" for the word  
1372 |       "person" to conform to context.

1374 |       Section 35. Paragraph (a) of subsection (4) of section  
1375 | 339.2819, Florida Statutes, is amended to read:

1376 |       339.2819 Transportation Regional Incentive Program.--

1377 |       (4)(a) Projects to be funded with Transportation Regional  
1378 | Incentive Program funds shall, at a minimum:

1379 |       1. Support those transportation facilities that serve  
1380 | national, statewide, or regional functions and function as an  
1381 | integrated regional transportation system.

1382 |       2. Be identified in the capital improvements element of a  
1383 | comprehensive plan that has been determined to be in compliance  
1384 | with part II of chapter 163, after July 1, 2005, or to implement  
1385 | a long-term concurrency management system adopted by a local  
1386 | government in accordance with s. 163.3180(9) ~~163.3177(9)~~.  
1387 | Further, the project shall be in compliance with local government  
1388 | comprehensive plan policies relative to corridor management.

1389 |       3. Be consistent with the Strategic Intermodal System Plan  
1390 | developed under s. 339.64.

1391 |       4. Have a commitment for local, regional, or private  
1392 | financial matching funds as a percentage of the overall project

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1393 cost.

1394

1395 Reviser's note.--Amended to substitute a reference to  
1396 s. 163.3180(9), relating to long-term transportation  
1397 and school community management systems, for a  
1398 reference to s. 163.3177(9), relating to rule adoption  
1399 of minimum criteria for review and determination of  
1400 compliance of local government plan elements to conform  
1401 to context.

1402

1403 Section 36. Subsection (2) of section 339.64, Florida  
1404 Statutes, is reenacted to read:

1405 339.64 Strategic Intermodal System Plan.--

1406 (2) In association with the continued development of the  
1407 Strategic Intermodal System Plan, the Florida Transportation  
1408 Commission, as part of its work program review process, shall  
1409 conduct an annual assessment of the progress that the department  
1410 and its transportation partners have made in realizing the goals  
1411 of economic development, improved mobility, and increased  
1412 intermodal connectivity of the Strategic Intermodal System. The  
1413 Florida Transportation Commission shall coordinate with the  
1414 department, the Statewide Intermodal Transportation Advisory  
1415 Council, and other appropriate entities when developing this  
1416 assessment. The Florida Transportation Commission shall deliver a  
1417 report to the Governor and Legislature no later than 14 days  
1418 after the regular session begins, with recommendations as  
1419 necessary to fully implement the Strategic Intermodal System.

1420

1421 Reviser's note.--Reenacted to confirm the continued

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1422 existence of subsection (2), which was repealed by s.  
1423 37, ch. 2005-2, Laws of Florida, a reviser's bill,  
1424 because it related to obsolete reporting requirements.  
1425 Those requirements were revised and updated by s. 7,  
1426 ch. 2005-281, Laws of Florida.

1427  
1428 Section 37. Paragraph (a) of subsection (2) of section  
1429 348.9932, Florida Statutes, is amended to read:

1430 348.9932 Southwest Florida Expressway Authority.--

1431 (2) The governing body of the authority shall consist of  
1432 seven voting members and one nonvoting member, as set forth in  
1433 this subsection.

1434 (a)1.

1435 a. One member who is a permanent resident of Collier County  
1436 and one member who is a permanent resident of Lee County shall be  
1437 appointed by the Governor to serve a term of 4 years each. The  
1438 Governor shall select his or her appointees from a list submitted  
1439 by the board of county commissioners of each county, with each  
1440 list recommending five candidates from their respective county.

1441 b. One member who is a permanent resident of Collier County  
1442 shall be appointed by the Board of County Commissioners of  
1443 Collier County and one member who is a permanent resident of Lee  
1444 County shall be appointed by the Board of County Commissioners of  
1445 Lee County to serve a term of 4 years each.

1446 2. Each member appointed under this paragraph shall be a  
1447 person of outstanding reputation for integrity, responsibility,  
1448 and business ability and shall have an interest in ground  
1449 transportation. No elected official and no person who is an  
1450 employee, in any capacity, of Collier County or Lee County or of

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any city within Collier County or Lee County shall be an appointed member of the authority except as set forth in this section.

3. Each appointed member shall be a resident of his or her respective county during his or her entire term.

4. Each appointed member shall be a voting member and shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term shall be filled only for the remainder of the unexpired term.

Reviser's note.--Amended pursuant to the directive of the Legislature in s. 1, ch. 93-199, Laws of Florida, to remove gender-specific references applicable to human beings from the Florida Statutes without substantive change in legal effect.

Section 38. Paragraph (d) of subsection (1) and paragraph (b) of subsection (7) of section 373.036, Florida Statutes, are amended to read:

373.036 Florida water plan; district water management plans.--

(1) FLORIDA WATER PLAN.--In cooperation with the water management districts, regional water supply authorities, and others, the department shall develop the Florida water plan. The Florida water plan shall include, but not be limited to:

(d) Goals, objectives, and guidance for the development and review of programs, rules, and plans relating to water resources, based on statutory policies and directives. The state water policy rule, renamed the water resource implementation rule

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1480 pursuant to s. 373.019(23) ~~373.019(20)~~, shall serve as this part  
 1481 of the plan. Amendments or additions to this part of the Florida  
 1482 water plan shall be adopted by the department as part of the  
 1483 water resource implementation rule. In accordance with s.  
 1484 373.114, the department shall review rules of the water  
 1485 management districts for consistency with this rule. Amendments  
 1486 to the water resource implementation rule must be adopted by the  
 1487 secretary of the department and be submitted to the President of  
 1488 the Senate and the Speaker of the House of Representatives within  
 1489 7 days after publication in the Florida Administrative Weekly.  
 1490 Amendments shall not become effective until the conclusion of the  
 1491 next regular session of the Legislature following their adoption.

1492 (7) CONSOLIDATED WATER MANAGEMENT DISTRICT ANNUAL REPORT.--

1493 (b) The consolidated annual report shall contain the  
 1494 following elements, as appropriate to that water management  
 1495 district:

- 1496 1. A district water management plan annual report or the  
 1497 annual work plan report allowed in subparagraph (2)(e)4.
- 1498 2. The department-approved minimum flows and levels annual  
 1499 priority list and schedule required by s. 373.042(2).
- 1500 3. The annual 5-year capital improvements plan required by  
 1501 s. 373.536(6)(a)3.
- 1502 4. The alternative water supplies annual report required by  
 1503 s. 373.1961(3)(n) ~~373.1961(2)(k)~~.
- 1504 5. The final annual 5-year water resource development work  
 1505 program required by s. 373.536(6)(a)4.
- 1506 6. The Florida Forever Water Management District Work Plan  
 1507 annual report required by s. 373.199(7).
- 1508 7. The mitigation donation annual report required by s.

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1509 373.414(1)(b)2.

1510

1511       Reviser's note.--Paragraph (1)(d) is amended to conform  
1512 to the redesignation of subunits of s. 373.019 by s. 1,  
1513 ch. 2005-291, Laws of Florida. Paragraph (7)(b) is  
1514 amended to conform to the redesignation of subunits of  
1515 s. 373.1961 by s. 3, ch. 2005-291.

1516

1517       Section 39. Subsection (3) of section 373.0361, Florida  
1518 Statutes, is amended to read:

1519       373.0361 Regional water supply planning.--

1520       (3) The water supply development component of a regional  
1521 water supply plan which deals with or affects public utilities  
1522 and public water supply for those areas served by a regional  
1523 water supply authority and its member governments within the  
1524 boundary of the Southwest Florida Water Management District shall  
1525 be developed jointly by the authority and the district. In areas  
1526 not served by regional water supply authorities, or other  
1527 multijurisdictional water supply entities, and where  
1528 opportunities exist to meet water supply needs more efficiently  
1529 through multijurisdictional projects identified pursuant to  
1530 paragraph (2)(a) ~~s. 372.0361(2)(a)~~, water management districts  
1531 are directed to assist in developing multijurisdictional  
1532 approaches to water supply project development jointly with  
1533 affected water utilities, special districts, and local  
1534 governments.

1535

1536       Reviser's note.--Amended to confirm the substitution by  
1537 the editors of a reference to paragraph (2)(a) for a

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1538 reference to nonexistent s. 372.0361(2)(a); s.  
1539 373.0361(2)(a) references multijurisdictional projects.  
1540

1541 Section 40. Paragraph (e) of subsection (3) of section  
1542 373.1961, Florida Statutes, is amended to read:

1543 373.1961 Water production; general powers and duties;  
1544 identification of needs; funding criteria; economic incentives;  
1545 reuse funding.--

1546 (3) FUNDING.--

1547 (e) Applicants for projects that may receive funding  
1548 assistance pursuant to the Water Protection and Sustainability  
1549 Program shall, at a minimum, be required to pay 60 percent of the  
1550 project's construction costs. The water management districts may,  
1551 at their discretion, totally or partially waive this requirement  
1552 for projects sponsored by financially disadvantaged small local  
1553 governments as defined in s. 403.885(5) ~~403.885(4)~~. The water  
1554 management districts or basin boards may, at their discretion,  
1555 use ad valorem or federal revenues to assist a project applicant  
1556 in meeting the requirements of this paragraph.  
1557

1558 Reviser's note.--Amended to conform to the  
1559 redesignation of subunits within s. 403.885 by s. 16,  
1560 ch. 2005-291, Laws of Florida.  
1561

1562 Section 41. Subsection (1) of section 373.421, Florida  
1563 Statutes, is amended to read:

1564 373.421 Delineation methods; formal determinations.--

1565 (1) The Environmental Regulation Commission shall adopt a  
1566 unified statewide methodology for the delineation of the extent

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1567 of wetlands as defined in s. 373.019(25) ~~373.019(22)~~. This  
 1568 methodology shall consider regional differences in the types of  
 1569 soils and vegetation that may serve as indicators of the extent  
 1570 of wetlands. This methodology shall also include provisions for  
 1571 determining the extent of surface waters other than wetlands for  
 1572 the purposes of regulation under s. 373.414. This methodology  
 1573 shall not become effective until ratified by the Legislature.  
 1574 Subsequent to legislative ratification, the wetland definition in  
 1575 s. 373.019(25) ~~373.019(22)~~ and the adopted wetland methodology  
 1576 shall be binding on the department, the water management  
 1577 districts, local governments, and any other governmental  
 1578 entities. Upon ratification of such wetland methodology, the  
 1579 Legislature preempts the authority of any water management  
 1580 district, state or regional agency, or local government to define  
 1581 wetlands or develop a delineation methodology to implement the  
 1582 definition and determines that the exclusive definition and  
 1583 delineation methodology for wetlands shall be that established  
 1584 pursuant to s. 373.019(25) ~~373.019(22)~~ and this section. Upon  
 1585 such legislative ratification, any existing wetlands definition  
 1586 or wetland delineation methodology shall be superseded by the  
 1587 wetland definition and delineation methodology established  
 1588 pursuant to this chapter. Subsequent to legislative ratification,  
 1589 a delineation of the extent of a surface water or wetland by the  
 1590 department or a water management district, pursuant to a formal  
 1591 determination under subsection (2), or pursuant to a permit  
 1592 issued under this part in which the delineation was field-  
 1593 verified by the permitting agency and specifically approved in  
 1594 the permit, shall be binding on all other governmental entities  
 1595 for the duration of the formal determination or permit. All



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1596 existing rules and methodologies of the department, the water  
1597 management districts, and local governments, regarding surface  
1598 water or wetland definition and delineation shall remain in full  
1599 force and effect until the common methodology rule becomes  
1600 effective. However, this shall not be construed to limit any  
1601 power of the department, the water management districts, and  
1602 local governments to amend or adopt a surface water or wetland  
1603 definition or delineation methodology until the common  
1604 methodology rule becomes effective.

1605  
1606       Reviser's note.--Amended to conform to the  
1607       redesignation of subunits within s. 373.019 by s. 1,  
1608       ch. 2005-291, Laws of Florida.

1609  
1610       Section 42. Subsection (1) of section 375.075, Florida  
1611 Statutes, is amended to read:  
1612       375.075 Outdoor recreation; financial assistance to local  
1613 governments.--

1614       (1) The Department of Environmental Protection is  
1615 authorized to establish the Florida Recreation Development  
1616 Assistance Program to provide grants to qualified local  
1617 governmental entities to acquire or develop land for public  
1618 outdoor recreation purposes. To the extent not needed for debt  
1619 service on bonds issued pursuant to s. 375.051, each year the  
1620 department shall develop and plan a program which shall be based  
1621 upon funding of not less than 5 percent of the money credited to  
1622 the Land Acquisition Trust Fund pursuant to s. 201.15(2) and (3)  
1623 in that year. ~~Beginning fiscal year 2001-2002,~~ The department  
1624 shall develop and plan a program which shall be based upon the

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1625 cumulative total funding provided from this section and from the  
1626 Florida Forever Trust Fund pursuant to s. 259.105(3)(d)  
1627 ~~259.105(3)(c)~~.

1628  
1629 Reviser's note.--Amended to correct a reference and  
1630 conform to context and to delete an obsolete date  
1631 reference. Section 259.105(3)(c) was amended by s. 11,  
1632 ch. 2000-170, Laws of Florida, and language relating to  
1633 transfer of funds to the Land Acquisition Trust Fund  
1634 for grants pursuant to s. 375.075 was stricken;  
1635 material relating to transfer of funds pursuant to s.  
1636 375.075 was added by s. 11, ch. 2000-170, at a new s.  
1637 259.105(3)(d).

1638  
1639 Section 43. Paragraph (a) of subsection (3) of section  
1640 390.01114, Florida Statutes, is amended to read:

1641 390.01114 Parental Notice of Abortion Act.--

1642 (3) NOTIFICATION REQUIRED.--

1643 (a) Actual notice shall be provided by the physician  
1644 performing or inducing the termination of pregnancy before the  
1645 performance or inducement of the termination of the pregnancy of  
1646 a minor. The notice may be given by a referring physician. The  
1647 physician who performs or induces the termination of pregnancy  
1648 must receive the written statement of the referring physician  
1649 certifying that the referring physician has given notice. If  
1650 actual notice is not possible after a reasonable effort has been  
1651 made, the physician performing or inducing the termination of  
1652 pregnancy or the referring physician must give constructive  
1653 notice. Notice given under this subsection by the physician

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1654 performing or inducing the termination of pregnancy must include  
1655 the name and address of the facility providing the termination of  
1656 pregnancy, and the name of the physician providing notice. Notice  
1657 given under this subsection by a referring physician must include  
1658 the name and address of the facility where he or she is referring  
1659 the minor and the name of the physician providing notice. If  
1660 actual notice is provided by telephone, the physician must  
1661 actually speak with the parent or guardian, and must record in  
1662 the minor's medical file the name of the parent or guardian  
1663 provided notice, the phone number dialed, and the date and time  
1664 of the call. If constructive notice is given, the physician must  
1665 document that notice by placing copies of any document related to  
1666 the constructive notice, including, but not limited to, a copy of  
1667 the letter and the return receipt, in the minor's medical file.

1668

1669       Reviser's note.--Amended to improve clarity.

1670

1671       Section 44. Section 397.405, Florida Statutes, is reenacted  
1672 to read:

1673       397.405 Exemptions from licensure.--The following are  
1674 exempt from the licensing provisions of this chapter:

1675       (1) A hospital or hospital-based component licensed under  
1676 chapter 395.

1677       (2) A nursing home facility as defined in s. 400.021.

1678       (3) A substance abuse education program established  
1679 pursuant to s. 1003.42.

1680       (4) A facility or institution operated by the Federal  
1681 Government.

1682       (5) A physician licensed under chapter 458 or chapter 459.

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1683           (6) A psychologist licensed under chapter 490.

1684           (7) A social worker, marriage and family therapist, or

1685 mental health counselor licensed under chapter 491.

1686           (8) An established and legally cognizable church or

1687 nonprofit religious organization or denomination providing

1688 substance abuse services, including prevention services, which

1689 are exclusively religious, spiritual, or ecclesiastical in

1690 nature. A church or nonprofit religious organization or

1691 denomination providing any of the licensable service components

1692 itemized under s. 397.311(18) is not exempt for purposes of its

1693 provision of such licensable service components but retains its

1694 exemption with respect to all services which are exclusively

1695 religious, spiritual, or ecclesiastical in nature.

1696           (9) Facilities licensed under s. 393.063 that, in addition

1697 to providing services to persons who are developmentally disabled

1698 as defined therein, also provide services to persons

1699 developmentally at risk as a consequence of exposure to alcohol

1700 or other legal or illegal drugs while in utero.

1701           (10) DUI education and screening services provided pursuant

1702 to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons

1703 or entities providing treatment services must be licensed under

1704 this chapter unless exempted from licensing as provided in this

1705 section.

1706

1707 The exemptions from licensure in this section do not apply to any

1708 service provider that receives an appropriation, grant, or

1709 contract from the state to operate as a service provider as

1710 defined in this chapter or to any substance abuse program

1711 regulated pursuant to s. 397.406. Furthermore, this chapter may

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1712 not be construed to limit the practice of a physician licensed  
1713 under chapter 458 or chapter 459, a psychologist licensed under  
1714 chapter 490, or a psychotherapist licensed under chapter 491 who  
1715 provides substance abuse treatment, so long as the physician,  
1716 psychologist, or psychotherapist does not represent to the public  
1717 that he or she is a licensed service provider and does not  
1718 provide services to clients pursuant to part V of this chapter.  
1719 Failure to comply with any requirement necessary to maintain an  
1720 exempt status under this section is a misdemeanor of the first  
1721 degree, punishable as provided in s. 775.082 or s. 775.083.

1722  
1723       Reviser's note.--Section 4, ch. 2005-55, Laws of  
1724       Florida, reenacted subsection (8) without publishing  
1725       the flush left language at the end of the section.  
1726       Absent affirmative evidence of legislative intent to  
1727       repeal the flush left language, it is reenacted here to  
1728       confirm that the omission was not intended.

1729  
1730       Section 45. Subsections (3) and (4) of section 402.7305,  
1731       Florida Statutes, are amended to read:

1732       402.7305 Department of Children and Family Services;  
1733       procurement of contractual services; contract management.--

1734       (3) CONTRACT MANAGEMENT REQUIREMENTS AND PROCESS.--The  
1735       Department of Children and Family Services shall review the time  
1736       period for which the department executes contracts and shall  
1737       execute multiyear contracts to make the most efficient use of the  
1738       resources devoted to contract processing and execution. Whenever  
1739       the department chooses not to use a multiyear contract, a  
1740       justification for that decision must be contained in the

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1741 contract. Notwithstanding s. 287.057(15), the department is  
 1742 responsible for establishing a contract management process that  
 1743 requires a member of the department's Senior Management or  
 1744 Selected ~~Select~~ Exempt Service to assign in writing the  
 1745 responsibility of a contract to a contract manager. The  
 1746 department shall maintain a set of procedures describing its  
 1747 contract management process which must minimally include the  
 1748 following requirements:

1749       (a) The contract manager shall maintain the official  
 1750 contract file throughout the duration of the contract and for a  
 1751 period not less than 6 years after the termination of the  
 1752 contract.

1753       (b) The contract manager shall review all invoices for  
 1754 compliance with the criteria and payment schedule provided for in  
 1755 the contract and shall approve payment of all invoices before  
 1756 their transmission to the Department of Financial Services for  
 1757 payment.

1758       (c) The contract manager shall maintain a schedule of  
 1759 payments and total amounts disbursed and shall periodically  
 1760 reconcile the records with the state's official accounting  
 1761 records.

1762       (d) For contracts involving the provision of direct client  
 1763 services, the contract manager shall periodically visit the  
 1764 physical location where the services are delivered and speak  
 1765 directly to clients receiving the services and the staff  
 1766 responsible for delivering the services.

1767       (e) The contract manager shall meet at least once a month  
 1768 directly with the contractor's representative and maintain  
 1769 records of such meetings.

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1770           (f) The contract manager shall periodically document any  
1771 differences between the required performance measures and the  
1772 actual performance measures. If a contractor fails to meet and  
1773 comply with the performance measures established in the contract,  
1774 the department may allow a reasonable period for the contractor  
1775 to correct performance deficiencies. If performance deficiencies  
1776 are not resolved to the satisfaction of the department within the  
1777 prescribed time, and if no extenuating circumstances can be  
1778 documented by the contractor to the department's satisfaction,  
1779 the department must terminate the contract. The department may  
1780 not enter into a new contract with that same contractor for the  
1781 services for which the contract was previously terminated for a  
1782 period of at least 24 months after the date of termination. The  
1783 contract manager shall obtain and enforce corrective action  
1784 plans, if appropriate, and maintain records regarding the  
1785 completion or failure to complete corrective action items.

1786           (g) The contract manager shall document any contract  
1787 modifications, which shall include recording any contract  
1788 amendments as provided for in this section.

1789           (h) The contract manager shall be properly trained before  
1790 being assigned responsibility for any contract.

1791           (4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.--The  
1792 department shall establish contract monitoring units staffed by  
1793 career service employees who report to a member of the Selected  
1794 ~~Select~~ Exempt Service or Senior Management Service and who have  
1795 been properly trained to perform contract monitoring, with at  
1796 least one member of the contract monitoring unit possessing  
1797 specific knowledge and experience in the contract's program area.  
1798 The department shall establish a contract monitoring process that

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1799 must include, but need not be limited to, the following  
1800 requirements:

1801       (a) Performing a risk assessment at the start of each  
1802 fiscal year and preparing an annual contract monitoring schedule  
1803 that includes consideration for the level of risk assigned. The  
1804 department may monitor any contract at any time regardless of  
1805 whether such monitoring was originally included in the annual  
1806 contract monitoring schedule.

1807       (b) Preparing a contract monitoring plan, including  
1808 sampling procedures, before performing onsite monitoring at  
1809 external locations of a service provider. The plan must include a  
1810 description of the programmatic, fiscal, and administrative  
1811 components that will be monitored on site. If appropriate,  
1812 clinical and therapeutic components may be included.

1813       (c) Conducting analyses of the performance and compliance  
1814 of an external service provider by means of desk reviews if the  
1815 external service provider will not be monitored on site during a  
1816 fiscal year.

1817       (d) Unless the department sets forth in writing the need  
1818 for an extension, providing a written report presenting the  
1819 results of the monitoring within 30 days after the completion of  
1820 the onsite monitoring or desk review.

1821       (e) Developing and maintaining a set of procedures  
1822 describing the contract monitoring process.

1823

1824       Reviser's note.--Amended to conform to the substitution  
1825 by the editors of the word "Selected" for the word  
1826 "Select" to conform to the title of the Selected Exempt  
1827 Service as referenced in part V of chapter 110, which



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1828           created it.

1829

1830           Section 46. Paragraphs (r) and (u) of subsection (2) of  
1831 section 403.813, Florida Statutes, are amended to read:

1832           403.813 Permits issued at district centers; exceptions.--

1833           (2) A permit is not required under this chapter, chapter  
1834 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter  
1835 25270, 1949, Laws of Florida, for activities associated with the  
1836 following types of projects; however, except as otherwise  
1837 provided in this subsection, nothing in this subsection relieves  
1838 an applicant from any requirement to obtain permission to use or  
1839 occupy lands owned by the Board of Trustees of the Internal  
1840 Improvement Trust Fund or any water management district in its  
1841 governmental or proprietary capacity or from complying with  
1842 applicable local pollution control programs authorized under this  
1843 chapter or other requirements of county and municipal  
1844 governments:

1845           (r) The removal of aquatic plants, the removal of tussocks,  
1846 the associated replanting of indigenous aquatic plants, and the  
1847 associated removal from lakes of organic detrital material when  
1848 such planting or removal is performed and authorized by permit or  
1849 exemption granted under s. 369.20 or s. 369.25, provided that:

1850           1. Organic detrital material that exists on the surface of  
1851 natural mineral substrate shall be allowed to be removed to a  
1852 depth of 3 feet or to the natural mineral substrate, whichever is  
1853 less;

1854           2. All material removed pursuant to this paragraph shall be  
1855 deposited in an upland site in a manner that will prevent the  
1856 reintroduction of the material into waters in the state except

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when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to s. 369.20 to create such islands as a part of a restoration or enhancement project;

3. All activities are performed in a manner consistent with state water quality standards; and

4. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(25) ~~373.019(22)~~, which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

The department may not adopt implementing rules for this paragraph, notwithstanding any other provision of law.

(u) Notwithstanding any provision to the contrary in this subsection, a permit or other authorization under chapter 253, chapter 369, chapter 373, or this chapter is not required for an individual residential property owner for the removal of organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not Aquatic Preserves or for the associated removal and replanting of aquatic vegetation for the purpose of environmental enhancement, providing that:

1. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(25) ~~373.019(22)~~, which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys.

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- 1886            2. No filling or peat mining is allowed.
- 1887            3. No removal of native wetland trees, including, but not
- 1888            limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.
- 1889            4. When removing organic detrital material, no portion of
- 1890            the underlying natural mineral substrate or rocky substrate is
- 1891            removed.
- 1892            5. Organic detrital material and plant material removed is
- 1893            deposited in an upland site in a manner that will not cause water
- 1894            quality violations.
- 1895            6. All activities are conducted in such a manner, and with
- 1896            appropriate turbidity controls, so as to prevent any water
- 1897            quality violations outside the immediate work area.
- 1898            7. Replanting with a variety of aquatic plants native to
- 1899            the state shall occur in a minimum of 25 percent of the
- 1900            preexisting vegetated areas where organic detrital material is
- 1901            removed, except for areas where the material is removed to bare
- 1902            rocky substrate; however, an area may be maintained clear of
- 1903            vegetation as an access corridor. The access corridor width may
- 1904            not exceed 50 percent of the property owner's frontage or 50
- 1905            feet, whichever is less, and may be a sufficient length waterward
- 1906            to create a corridor to allow access for a boat or swimmer to
- 1907            reach open water. Replanting must be at a minimum density of 2
- 1908            feet on center and be completed within 90 days after removal of
- 1909            existing aquatic vegetation, except that under dewatered
- 1910            conditions replanting must be completed within 90 days after
- 1911            reflooding. The area to be replanted must extend waterward from
- 1912            the ordinary high water line to a point where normal water depth
- 1913            would be 3 feet or the preexisting vegetation line, whichever is
- 1914            less. Individuals are required to make a reasonable effort to

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1915 maintain planting density for a period of 6 months after  
 1916 replanting is complete, and the plants, including naturally  
 1917 recruited native aquatic plants, must be allowed to expand and  
 1918 fill in the revegetation area. Native aquatic plants to be used  
 1919 for revegetation must be salvaged from the enhancement project  
 1920 site or obtained from an aquatic plant nursery regulated by the  
 1921 Department of Agriculture and Consumer Services. Plants that are  
 1922 not native to the state may not be used for replanting.

1923         8. No activity occurs any farther than 100 feet waterward  
 1924 of the ordinary high water line, and all activities must be  
 1925 designed and conducted in a manner that will not unreasonably  
 1926 restrict or infringe upon the riparian rights of adjacent upland  
 1927 riparian owners.

1928         9. The person seeking this exemption notifies the  
 1929 applicable department district office in writing at least 30 days  
 1930 before commencing work and allows the department to conduct a  
 1931 preconstruction site inspection. Notice must include an organic-  
 1932 detrital-material removal and disposal plan and, if applicable, a  
 1933 vegetation-removal and revegetation plan.

1934         10. The department is provided written certification of  
 1935 compliance with the terms and conditions of this paragraph within  
 1936 30 days after completion of any activity occurring under this  
 1937 exemption.

1938  
 1939         Reviser's note.--Amended to conform to the  
 1940 redesignation of subunits within s. 373.019 by s. 1,  
 1941 ch. 2005-291, Laws of Florida.

1942  
 1943         Section 47. Subsection (5) of section 404.056, Florida

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1944 Statutes, is amended to read:  
 1945           404.056 Environmental radiation standards and projects;  
 1946 certification of persons performing measurement or mitigation  
 1947 services; mandatory testing; notification on real estate  
 1948 documents; rules.--  
 1949           (5) NOTIFICATION ON REAL ESTATE DOCUMENTS.--Notification  
 1950 shall be provided on at least one document, form, or application  
 1951 executed at the time of, or prior to, contract for sale and  
 1952 purchase of any building or execution of a rental agreement for  
 1953 any building. Such notification shall contain the following  
 1954 language:  
 1955  
 1956           "RADON GAS: Radon is a naturally occurring radioactive gas  
 1957 that, when it has accumulated in a building in sufficient  
 1958 quantities, may present health risks to persons who are exposed  
 1959 to it over time. Levels of radon that exceed federal and state  
 1960 guidelines have been found in buildings in Florida. Additional  
 1961 information regarding radon and radon testing may be obtained  
 1962 from your county health department."  
 1963  
 1964 The requirements of this subsection do not apply to any  
 1965 residential transient occupancy, as described in s. 509.013(12)  
 1966 ~~509.013(11)~~, provided that such occupancy is 45 days or less in  
 1967 duration.  
 1968  
 1969           Reviser's note.--Amended to conform to the  
 1970 redesignation of s. 509.013(11) as s. 509.013(12) by s.  
 1971 7, ch. 2004-292, Laws of Florida.  
 1972

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1973           Section 48. Paragraph (b) of subsection (2) of section  
1974   406.11, Florida Statutes, is amended to read:  
1975           406.11 Examinations, investigations, and autopsies.--  
1976           (2)  
1977           (b) The Medical Examiners Commission shall adopt rules,  
1978   pursuant to chapter 120, providing for the notification of the  
1979   next of kin that an investigation by the medical examiner's  
1980   office is being conducted. A medical examiner may not retain or  
1981   furnish any body part of the deceased for research or any other  
1982   purpose which is not in conjunction with a determination of the  
1983   identification of or cause or manner of death of the deceased or  
1984   the presence of disease or which is not otherwise authorized by  
1985   this chapter, part V X of chapter 765 ~~732~~, or chapter 873,  
1986   without notification of and approval by the next of kin.

1987  
1988           Reviser's note.--Amended to conform to the transfer of  
1989   material in former part X of chapter 732 to part V of  
1990   chapter 765 pursuant to ch. 2001-226, Laws of Florida.

1991  
1992           Section 49. Paragraph (f) of subsection (3) of section  
1993   409.165, Florida Statutes, is amended to read:  
1994           409.165 Alternate care for children.--  
1995           (3) With the written consent of parents, custodians, or  
1996   guardians, or in accordance with those provisions in chapter 39  
1997   that relate to dependent children, the department, under rules  
1998   properly adopted, may place a child:

1999           (f) In a subsidized independent living situation, subject  
2000   to the provisions of s. 409.1451(4)(c) ~~409.1451(3)(c)~~,  
2001

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2002 | under such conditions as are determined to be for the best  
 2003 | interests or the welfare of the child. Any child placed in an  
 2004 | institution or in a family home by the department or its agency  
 2005 | may be removed by the department or its agency, and such other  
 2006 | disposition may be made as is for the best interest of the child,  
 2007 | including transfer of the child to another institution, another  
 2008 | home, or the home of the child. Expenditure of funds appropriated  
 2009 | for out-of-home care can be used to meet the needs of a child in  
 2010 | the child's own home or the home of a relative if the child can  
 2011 | be safely served in the child's own home or that of a relative if  
 2012 | placement can be avoided by the expenditure of such funds, and if  
 2013 | the expenditure of such funds in this manner is calculated by the  
 2014 | department to be a potential cost savings.

2015 |  
 2016 |       Reviser's note.--Amended to conform to the  
 2017 |       redesignation of subunits within s. 409.1451 by s. 1,  
 2018 |       ch. 2004-362, Laws of Florida.

2019 |  
 2020 |       Section 50. Subsection (9) of section 409.814, Florida  
 2021 | Statutes, is amended to read:  
 2022 |       409.814 Eligibility.--A child who has not reached 19 years  
 2023 | of age whose family income is equal to or below 200 percent of  
 2024 | the federal poverty level is eligible for the Florida KidCare  
 2025 | program as provided in this section. For enrollment in the  
 2026 | Children's Medical Services Network, a complete application  
 2027 | includes the medical or behavioral health screening. If,  
 2028 | subsequently, an individual is determined to be ineligible for  
 2029 | coverage, he or she must immediately be disenrolled from the  
 2030 | respective Florida KidCare program component.

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2031           (9) Subject to paragraph (4)(b) and s. 624.91(4) ~~624.91(3)~~,  
 2032 the Florida KidCare program shall withhold benefits from an  
 2033 enrollee if the program obtains evidence that the enrollee is no  
 2034 longer eligible, submitted incorrect or fraudulent information in  
 2035 order to establish eligibility, or failed to provide verification  
 2036 of eligibility. The applicant or enrollee shall be notified that  
 2037 because of such evidence program benefits will be withheld unless  
 2038 the applicant or enrollee contacts a designated representative of  
 2039 the program by a specified date, which must be within 10 days  
 2040 after the date of notice, to discuss and resolve the matter. The  
 2041 program shall make every effort to resolve the matter within a  
 2042 timeframe that will not cause benefits to be withheld from an  
 2043 eligible enrollee.

2044  
 2045           Reviser's note.--Amended to conform to the  
 2046 redesignation of subunits within s. 624.91 by s. 6, ch.  
 2047 2004-1, Laws of Florida.

2048  
 2049           Section 51. Subsections (1) and (2) of section 409.91196,  
 2050 Florida Statutes, are amended to read:

2051           409.91196 Supplemental rebate agreements; confidentiality  
 2052 of records and meetings.--

2053           (1) Trade secrets, rebate amount, percent of rebate,  
 2054 manufacturer's pricing, and supplemental rebates which are  
 2055 contained in records of the Agency for Health Care Administration  
 2056 and its agents with respect to supplemental rebate negotiations  
 2057 and which are prepared pursuant to a supplemental rebate  
 2058 agreement under s. 409.912(39)(a)7. ~~409.912(40)(a)7.~~ are  
 2059 confidential and exempt from s. 119.07 and s. 24(a), Art. I of



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2060 the State Constitution.

2061       (2) Those portions of meetings of the Medicaid

2062 Pharmaceutical and Therapeutics Committee at which trade secrets,

2063 rebate amount, percent of rebate, manufacturer's pricing, and

2064 supplemental rebates are disclosed for discussion or negotiation

2065 of a supplemental rebate agreement under s. 409.912(39)(a)7.

2066 ~~409.912(40)(a)7.~~ are exempt from s. 286.011 and s. 24(b), Art. I

2067 of the State Constitution.

2068

2069       Reviser's note.--Amended to conform to the repeal of

2070 former s. 409.912(38) by s. 55, ch. 2004-5, Laws of

2071 Florida, and the redesignation of subunits by the

2072 reviser necessitated by that repeal.

2073

2074       Section 52. Subsection (11) of section 440.05, Florida

2075 Statutes, is amended to read:

2076       440.05 Election of exemption; revocation of election;

2077 notice; certification.--

2078       (11) Any corporate officer permitted by this chapter to

2079 claim an exemption must be listed on the records of this state's

2080 Secretary of State, Division of Corporations, as a corporate

2081 officer. The department shall issue a stop-work order under s.

2082 440.107(7) ~~440.107(1)~~ to any corporation who employs a person who

2083 claims to be exempt as a corporate officer but who fails or

2084 refuses to produce the documents required under this subsection

2085 to the department within 3 business days after the request is

2086 made.

2087

2088       Reviser's note.--Amended to correct a reference and

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2089           conform to context. Section 440.107(1) contains  
2090           legislative findings; s. 440.107(7) relates to stop-  
2091           work orders.  
2092  
2093           Section 53. Paragraph (c) of subsection (3) of section  
2094           443.121, Florida Statutes, is amended to read:  
2095           443.121   Employing units affected.--  
2096           (3)   ELECTIVE COVERAGE.--  
2097           (c)   Certain services for political subdivisions.--  
2098           1.   Any political subdivision of this state may elect to  
2099           cover under this chapter, for at least 1 calendar year, service  
2100           performed by employees in all of the hospitals and institutions  
2101           of higher education operated by the political subdivision.  
2102           Election must be made by filing with the tax collection service  
2103           provider a notice of election at least 30 days before the  
2104           effective date of the election. The election may exclude any  
2105           services described in s. 443.1216(4). Any political subdivision  
2106           electing coverage under this paragraph must be a reimbursing  
2107           employer and make reimbursements in lieu of contributions for  
2108           benefits attributable to this employment, provided for nonprofit  
2109           organizations in s. 443.1312(3) and (5).  
2110           2.   The provisions of s. 443.091(3) ~~443.091(4)~~ relating to  
2111           benefit rights based on service for nonprofit organizations and  
2112           state hospitals and institutions of higher education also apply  
2113           to service covered by an election under this section.  
2114           3.   The amounts required to be reimbursed in lieu of  
2115           contributions by any political subdivision under this paragraph  
2116           shall be billed, and payment made, as provided in s. 443.1312(3)  
2117           for similar reimbursements by nonprofit organizations.

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2118           4. An election under this paragraph may be terminated after  
2119 at least 1 calendar year of coverage by filing with the tax  
2120 collection service provider written notice not later than 30 days  
2121 before the last day of the calendar year in which the termination  
2122 is to be effective. The termination takes effect on January 1 of  
2123 the next ensuing calendar year for services performed after that  
2124 date.

2125  
2126           Reviser's note.--Amended to correct a long-standing  
2127 cross-reference error. Section 443.091(4) relates to  
2128 invocation of federal measures regarding unemployment  
2129 compensation in the event of a national emergency;  
2130 benefits for services are covered in s. 443.091(3). See  
2131 ss. 5 and 7, ch. 71-225, Laws of Florida, for the  
2132 intended reference.

2133  
2134           Section 54. Subsection (9) of section 445.009, Florida  
2135 Statutes, is amended to read:

2136           445.009 One-stop delivery system.--

2137           (9)(a) Workforce Florida, Inc., working with the Agency for  
2138 Workforce Innovation, shall coordinate among the agencies a plan  
2139 for a One-Stop Electronic Network made up of one-stop delivery  
2140 system centers and other partner agencies that are operated by  
2141 authorized public or private for-profit or not-for-profit agents.  
2142 The plan shall identify resources within existing revenues to  
2143 establish and support this electronic network for service  
2144 delivery that includes Government Services Direct. If necessary,  
2145 the plan shall identify additional funding needed to achieve the  
2146 provisions of this subsection.

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2147 (b) The network shall assure that a uniform method is used  
2148 to determine eligibility for and management of services provided  
2149 by agencies that conduct workforce development activities. The  
2150 Department of Management Services shall develop strategies to  
2151 allow access to the databases and information management systems  
2152 of the following systems in order to link information in those  
2153 databases with the one-stop delivery system:

2154 1. The Unemployment Compensation Program of the Agency for  
2155 Workforce Innovation.

2156 2. The public employment service described in s. 443.181.

2157 3. The FLORIDA System and the components related to WAGES,  
2158 food stamps, and Medicaid eligibility.

2159 4. The Student Financial Assistance System of the  
2160 Department of Education.

2161 5. Enrollment in the public postsecondary education system.

2162 6. Other information systems determined appropriate by  
2163 Workforce Florida, Inc.

2164  
2165 ~~The systems shall be fully coordinated at both the state and~~  
2166 ~~local levels by July 1, 2001.~~

2167  
2168 Reviser's note.--Amended to delete a provision  
2169 requiring that certain information systems relating to  
2170 one-stop delivery of workforce services be fully  
2171 coordinated by July 1, 2001.

2172  
2173 Section 55. Paragraph (a) of subsection (2) of section  
2174 466.004, Florida Statutes, is amended to read:

2175 466.004 Board of Dentistry.--

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2176           (2) To advise the board, it is the intent of the  
2177 Legislature that councils be appointed as specified in paragraphs  
2178 (a), (b), and (c). The department shall provide administrative  
2179 support to the councils and shall provide public notice of  
2180 meetings and agenda of the councils. Councils shall include at  
2181 least one board member who shall chair the council and shall  
2182 include nonboard members. All council members shall be appointed  
2183 by the board chair. Council members shall be appointed for 4-  
2184 year terms, and all members shall be eligible for reimbursement  
2185 of expenses in the manner of board members.

2186           (a) A Council on Dental Hygiene shall be appointed by the  
2187 board chair and shall include one dental hygienist member of the  
2188 board, who shall chair the council, one dental member of the  
2189 board, and three dental hygienists who are actively engaged in  
2190 the practice of dental hygiene in this state. In making the  
2191 appointments, the chair shall consider recommendations from the  
2192 Florida Dental Hygiene ~~Hygienist~~ Association. The council shall  
2193 meet at the request of the board chair, a majority of the members  
2194 of the board, or the council chair; however, the council must  
2195 meet at least three times a year. The council is charged with the  
2196 responsibility of and shall meet for the purpose of developing  
2197 rules and policies for recommendation to the board, which the  
2198 board shall consider, on matters pertaining to that part of  
2199 dentistry consisting of educational, preventive, or therapeutic  
2200 dental hygiene services; dental hygiene licensure, discipline, or  
2201 regulation; and dental hygiene education. Rule and policy  
2202 recommendations of the council shall be considered by the board  
2203 at its next regularly scheduled meeting in the same manner in  
2204 which it considers rule and policy recommendations from

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2205 designated subcommittees of the board. Any rule or policy  
2206 proposed by the board pertaining to the specified part of  
2207 dentistry defined by this subsection shall be referred to the  
2208 council for a recommendation before final action by the board.  
2209 The board may take final action on rules pertaining to the  
2210 specified part of dentistry defined by this subsection without a  
2211 council recommendation if the council fails to submit a  
2212 recommendation in a timely fashion as prescribed by the board.

2213  
2214       Reviser's note.--Amended to confirm the substitution by  
2215       the editors of the word "Hygiene" for the word  
2216       "Hygienists" to conform to the proper name of the  
2217       Florida Dental Hygiene Association.

2218  
2219       Section 56. Subsection (3) of section 475.713, Florida  
2220 Statutes, is amended to read:

2221       475.713 Civil action concerning commission; order to show  
2222 cause; hearing; release of proceeds; award of costs and  
2223 attorney's fees.--

2224       (3) The court shall issue an order releasing the broker's  
2225 claim of lien against the owner's net proceeds from such  
2226 disposition, discharging any commission notice that may be have  
2227 been recorded, ordering the release to the owner of the disputed  
2228 reserved proceeds, and awarding costs and reasonable attorney's  
2229 fees to the owner to be paid by the broker if, following a  
2230 hearing, the court determines that the owner is not a party to a  
2231 brokerage agreement that will result in the owner being obligated  
2232 to pay the broker the claimed commission or any portion thereof  
2233 with respect to the disposition of the commercial real estate

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2234 identified in the commission notice. If the court determines that  
2235 the owner is a party to a brokerage agreement that will result in  
2236 the owner being obligated to pay the broker the claimed  
2237 commission or any portion thereof with respect to the disposition  
2238 of the commercial real estate identified in the commission  
2239 notice, the court shall issue an order so stating, ordering the  
2240 release to the broker of the disputed reserved proceeds or such  
2241 portion thereof to which the court determines that the broker is  
2242 entitled, and awarding costs and reasonable attorney's fees to  
2243 the broker to be paid by the owner. Such orders are final  
2244 judgments.

2245  
2246       Reviser's note.--Amended to confirm the deletion by the  
2247       editors of the word "be" following the word "may" to  
2248       improve clarity.

2249  
2250       Section 57. Subsection (8) of section 475.801, Florida  
2251 Statutes, is amended to read:

2252       475.801 Definitions.--As used in this part:

2253       (8) "Lien notice" means the written notice of lien made by  
2254 a broker claiming a commission under s. 475.805 ~~745.805~~.

2255  
2256       Reviser's note.--Amended to correct a reference to  
2257       nonexistent s. 745.805; s. 475.805 relates to the  
2258       contents of lien notices.

2259  
2260       Section 58. Subsection (2) of section 475.805, Florida  
2261 Statutes, is amended to read:

2262       475.805 Contents of lien notice.--

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2263           (2) A lien notice in substantially the following form shall  
2264 be sufficient for purposes of subsection (1):

2265                       BROKER'S COMMISSION LIEN NOTICE

2266  
2267 UNDER FLORIDA COMMERCIAL REAL ESTATE  
2268 LEASING COMMISSION LIEN ACT

2269  
2270 Notice is hereby given, pursuant to the Florida Commercial Real  
2271 Estate Leasing Commission Lien Act, part IV of chapter 475,  
2272 Florida Statutes (the "act"), that the undersigned real estate  
2273 broker is entitled to receive a leasing commission from the owner  
2274 named below pursuant to the terms of a written brokerage  
2275 commission agreement regarding a lease of the commercial real  
2276 estate described below, and the undersigned broker claims a lien  
2277 under the act against the owner's interest in the commercial real  
2278 estate in the amount set forth below.

2279  
2280 1. Name of the owner who is obligated to pay the commission:

2281 \_\_\_\_\_

2282

2283

2284 2. (Check one:) The owner obligated to pay the commission is:

2285       [   ] the landlord under the lease.

2286       [   ] the tenant under the lease.

2287

2288 3. Name of the person owning ~~owing~~ the fee simple interest in  
2289 the commercial real estate, if other than the owner who is  
2290 obligated to pay the commission:

2291 \_\_\_\_\_



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2292  
2293  
2294 4. Legal description of the commercial real estate:  
2295 \_\_\_\_\_  
2296  
2297  
2298 5. Name, mailing address, telephone number, and Florida broker  
2299 license number of the undersigned broker:  
2300  
2301  
2302 \_\_\_\_\_  
2303  
2304  
2305  
2306 \_\_\_\_\_  
2307  
2308  
2309  
2310 \_\_\_\_\_  
2311  
2312  
2313 6. Effective date of the written brokerage commission agreement  
2314 between the owner and the broker under which the commission is or  
2315 will be payable: \_\_\_\_\_, \_\_\_\_\_.  
2316  
2317 7. Amount of commission claimed by the undersigned broker:  
2318 \$ \_\_\_\_\_, or \_\_\_\_\_ percent of  
2319 rents payable under lease, or  
2320

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2321 [specify other formula for determination of commission amount]:

2322 \_\_\_\_\_.

2323  
2324 8. The lease for which the commission is claimed is described as  
2325 follows [provide all information known to the broker]:

2326 Name of landlord: \_\_\_\_\_

2327 Name of tenant: \_\_\_\_\_

2328 Date of lease: \_\_\_\_\_,

2329 Leased premises: \_\_\_\_\_

2330  
2331 9. Automatic renewal commissions (check yes or no): Is the  
2332 undersigned broker claiming a commission that may become payable  
2333 if the lease is later renewed or modified to expand the leased  
2334 premises or to extend the lease term, but the written brokerage  
2335 commission agreement does not expressly require the broker to  
2336 perform any additional services in order to receive this later  
2337 commission?

2338 [ ] Yes

2339 [ ] No

2340  
2341 If yes, specify the amount of such later commission or the  
2342 formula for computing the later commission:

2343 \_\_\_\_\_

2344  
2345  
2346 10. The expiration date of this lien notice is 2 years after the  
2347 date of recording, unless the answer to paragraph 9 is yes, in  
2348 which case the expiration date of this lien notice for the  
2349 commission described in paragraph 9 is 10 years after the date of

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2350 recording.

2351

2352 11. The undersigned broker, under penalty of perjury, hereby  
2353 swears or affirms that the undersigned broker has read this lien  
2354 notice, knows its contents and believes the same to be true and  
2355 correct, and that the undersigned broker is making this  
2356 commission claim pursuant to the written brokerage commission  
2357 agreement described in this lien notice.

2358 Signed: (broker)

2359

2360

2361 Signed and sworn to or affirmed under penalty of perjury before  
2362 me, a notary public, this \_\_\_\_\_ day of \_\_\_\_\_,  
2363 \_\_\_\_\_, by \_\_\_\_\_.

2364 Signed: (notary public)

2365

2366

2367 Reviser's note.--Amended to conform to context.

2368

2369 Section 59. Paragraph (a) of subsection (9) of section  
2370 497.458, Florida Statutes, is amended to read:

2371 497.458 Disposition of proceeds received on contracts.--

2372 (9) The amounts required to be placed in trust by this  
2373 section for contracts previously entered into shall be as  
2374 follows:

2375 (a) For contracts entered into before October 1, 1993, the  
2376 trust amounts as amended by s. 6, chapter 83-316 ~~83-816~~, Laws of  
2377 Florida, shall apply.

2378

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2379 Reviser's note.--Amended to correct a reference to s.  
2380 6, ch. 83-816, Laws of Florida. Chapter 83-816 does not  
2381 exist; s. 6, ch. 83-316, Laws of Florida, amended the  
2382 material currently in s. 497.458.

2383  
2384 Section 60. Paragraph (b) of subsection (6) of section  
2385 497.459, Florida Statutes, is amended to read:

2386 497.459 Cancellation of, or default on, preneed  
2387 contracts.--

2388 (6) OTHER PROVISIONS.--

2389 (b) The amounts required to be refunded by this section for  
2390 contracts previously entered into shall be as follows:

2391 1. For contracts entered into before October 1, 1993, the  
2392 refund amounts as amended by s. 7, chapter 83-316 ~~83-816~~, Laws of  
2393 Florida, shall apply.

2394 2. For contracts entered into on or after October 1, 1993,  
2395 the refund amounts as amended by s. 99, chapter 93-399, Laws of  
2396 Florida, shall apply.

2397  
2398 Reviser's note.--Amended to correct a reference to s.  
2399 7, ch. 83-816, Laws of Florida. Chapter 83-816 does not  
2400 exist; s. 7, ch. 83-316, Laws of Florida, amended the  
2401 material currently in s. 497.459.

2402  
2403 Section 61. Subsection (3) of section 499.024, Florida  
2404 Statutes, is amended to read:

2405 499.024 Drug product classification.--The secretary shall  
2406 adopt rules to classify drug products intended for use by humans  
2407 which the United States Food and Drug Administration has not

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2408 | classified in the federal act or the Code of Federal Regulations.  
 2409 |       (3) Any product that falls under the drug definition, s.  
 2410 | 499.003(17) ~~499.003(12)~~, may be classified under the authority of  
 2411 | this section. This section does not subject portable emergency  
 2412 | oxygen inhalators to classification; however, this section does  
 2413 | not exempt any person from ss. 499.01 and 499.015.

2414 |  
 2415 |       Reviser's note.--Amended to conform to the  
 2416 | redesignation of s. 499.003(12), defining the term  
 2417 | "drug," as s. 499.003(17) by s. 3, ch. 2003-155, Laws  
 2418 | of Florida.

2419 |  
 2420 |       Section 62. Subsection (20) of section 517.12, Florida  
 2421 | Statutes, is amended to read:

2422 |       517.12 Registration of dealers, associated persons,  
 2423 | investment advisers, and branch offices.--

2424 |       (20) The registration requirements of this section do not  
 2425 | apply to any general lines insurance agent or life insurance  
 2426 | agent licensed under chapter 626, for the sale of a security as  
 2427 | defined in s. 517.021(21)(g) ~~517.021(20)(g)~~, if the individual is  
 2428 | directly authorized by the issuer to offer or sell the security  
 2429 | on behalf of the issuer and the issuer is a federally chartered  
 2430 | savings bank subject to regulation by the Federal Deposit  
 2431 | Insurance Corporation. Actions under this subsection shall  
 2432 | constitute activity under the insurance agent's license for  
 2433 | purposes of ss. 626.611 and 626.621.

2434 |  
 2435 |       Reviser's note.--Amended to correct a reference and  
 2436 | conform to context. Section 517.021(20) is not divided

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2437 into paragraphs; s. 517.021(21)(g) lists certificates  
 2438 of deposit within the definition of the word  
 2439 "security." The reference in s. 517.12, originally to  
 2440 s. 517.021(19)(g), was added by s. 12, ch. 2002-404,  
 2441 Laws of Florida; the cited material there is now in s.  
 2442 517.021(21)(g).  
 2443

2444 Section 63. Subsection (1) of section 553.792, Florida  
 2445 Statutes, is amended to read:

2446 553.792 Building permit application to local government.--

2447 (1) Within 10 days of an applicant submitting an  
 2448 application to the local government, the local government shall  
 2449 advise the applicant what information, if any, is needed to deem  
 2450 the application properly completed in compliance with the filing  
 2451 requirements published by the local government. If the local  
 2452 government does not provide written notice that the applicant has  
 2453 not submitted the properly completed application, the application  
 2454 shall be automatically deemed properly completed and accepted.  
 2455 Within 45 days after receiving a completed application, a local  
 2456 government must notify an applicant if additional information is  
 2457 required for the local government to determine the sufficiency of  
 2458 the application, and shall specify the additional information  
 2459 that is required. The applicant must submit the additional  
 2460 information to the local government or request that the local  
 2461 government act without the additional information. While the  
 2462 applicant responds to the request for additional information, the  
 2463 120-day period described in this subsection ~~(2)~~ is tolled. Both  
 2464 parties may agree to a reasonable request for an extension of  
 2465 time, particularly in the event of a force major or other

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2466 extraordinary circumstance. The local government must approve,  
2467 approve with conditions, or deny the application within 120 days  
2468 following receipt of a completed application.

2469  
2470       Reviser's note.--Amended to correct a reference and  
2471 improve clarity. Section 553.792(2) does not reference  
2472 a 120-day period for action on an application;  
2473 subsection (1) does require local government action on  
2474 an application within 120 days following receipt of a  
2475 completed application.

2476  
2477       Section 64. Paragraph (a) of subsection (7) of section  
2478 553.80, Florida Statutes, is amended to read:

2479       553.80 Enforcement.--

2480       (7) The governing bodies of local governments may provide a  
2481 schedule of reasonable fees, as authorized by s. 125.56(2) or s.  
2482 166.222 and this section, for enforcing this part. These fees,  
2483 and any fines or investment earnings related to the fees, shall  
2484 be used solely for carrying out the local government's  
2485 responsibilities in enforcing the Florida Building Code. When  
2486 providing a schedule of reasonable fees, the total estimated  
2487 annual revenue derived from fees, and the fines and investment  
2488 earnings related to the fees, may not exceed the total estimated  
2489 annual costs of allowable activities. Any unexpended balances  
2490 shall be carried forward to future years for allowable activities  
2491 or shall be refunded at the discretion of the local government.  
2492 The basis for a fee structure for allowable activities shall  
2493 relate to the level of service provided by the local government.  
2494 Fees charged shall be consistently applied.

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2495           (a) As used in this subsection, the phrase "enforcing the  
2496 Florida Building Code" includes the direct costs and reasonable  
2497 indirect costs associated with review of building plans, building  
2498 inspections, reinspections, and building permit processing;  
2499 building code enforcement; and fire inspections associated with  
2500 new construction. The phrase may also include training costs  
2501 associated with the enforcement of the Florida Building Code and  
2502 enforcement action pertaining to unlicensed contractor activity  
2503 to the extent not funded by other user fees.

2504

2505           Reviser's note.--Amended to confirm the insertion by  
2506 the editors of the word "and" following the word  
2507 "reinspections" to improve clarity.

2508

2509           Section 65. Subsections (3) and (4) of section 553.842,  
2510 Florida Statutes, are amended to read:

2511           553.842 Product evaluation and approval.--

2512           (3) Products or methods or systems of construction that  
2513 require approval under s. 553.77, that have standardized testing  
2514 or comparative or rational analysis methods established by the  
2515 code, and that are certified by an approved product evaluation  
2516 entity, testing laboratory, or certification agency as complying  
2517 with the standards specified by the code shall be approved for  
2518 statewide use. Products required to be approved for statewide use  
2519 shall be approved by one of the methods established in subsection  
2520 (5) ~~(6)~~ without further evaluation.

2521           (4) Products or methods or systems of construction  
2522 requiring approval under s. 553.77 must be approved by one of the  
2523 methods established in subsection (5) ~~or subsection (6)~~ before



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2524 their use in construction in this state. Products may be approved  
 2525 by the commission for statewide use. Notwithstanding a local  
 2526 government's authority to amend the Florida Building Code as  
 2527 provided in this act, statewide approval shall preclude local  
 2528 jurisdictions from requiring further testing, evaluation, or  
 2529 submission of other evidence as a condition of using the product  
 2530 so long as the product is being used consistent with the  
 2531 conditions of its approval.

2532  
 2533       Reviser's note.--Amended to conform to the deletion of  
 2534       former s. 553.842(5) and the consequent redesignation  
 2535       of subsection (6) as subsection (5) by s. 16, ch. 2005-  
 2536       147, Laws of Florida.

2537  
 2538       Section 66. Paragraph (f) of subsection (1) of section  
 2539       553.8425, Florida Statutes, is amended to read:

2540       553.8425 Local product approval.--

2541       (1) For local product approval, products or systems of  
 2542 construction shall demonstrate compliance with the structural  
 2543 windload requirements of the Florida Building Code through one of  
 2544 the following methods:

2545       (f) Designation of compliance with a prescriptive, material  
 2546 standard adopted by the commission by rule under s. 553.842(15)  
 2547 ~~553.842(16)~~.

2548  
 2549       Reviser's note.--Amended to conform to the location of  
 2550 material relating to adoption of a rule listing  
 2551 prescriptive material standards in s. 553.842(15); s.  
 2552 553.842(16) does not exist.

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2553  
 2554           Section 67. Subsection (6) of section 556.102, Florida  
 2555 Statutes, is amended to read:  
 2556           556.102 Definitions.--As used in this act:  
 2557           (6) "Excavate" or "excavation" means any manmade cut,  
 2558 cavity, trench, or depression in the earth's surface, formed by  
 2559 removal of earth, intended to change the grade or level of land,  
 2560 or intended to penetrate or disturb the surface of the earth,  
 2561 including land beneath the waters of the state, as defined in s.  
 2562 373.019(20) ~~373.019(17)~~, and the term includes pipe bursting and  
 2563 directional drilling or boring from one point to another point  
 2564 beneath the surface of the earth, or other trenchless  
 2565 technologies.  
 2566  
 2567           Reviser's note.--Amended to conform to the  
 2568 redesignation of s. 373.019(17), defining "water" or  
 2569 "waters of the state," as s. 373.019(20) by s. 1, ch.  
 2570 2005-291, Laws of Florida.  
 2571  
 2572           Section 68. Paragraph (c) of subsection (2) of section  
 2573 570.076, Florida Statutes, is amended to read:  
 2574           570.076 Environmental Stewardship Certification  
 2575 Program.--The department may, by rule, establish the  
 2576 Environmental Stewardship Certification Program consistent with  
 2577 this section. A rule adopted under this section must be developed  
 2578 in consultation with state universities, agricultural  
 2579 organizations, and other interested parties.  
 2580           (2) The department shall provide an agricultural  
 2581 certification under this program for implementation of one or

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2582 | more of the following criteria:

2583 |       (c) Best management practices adopted by rule pursuant to  
2584 | s. 403.067(7)(c) ~~403.067(7)(d)~~ or s. 570.085(2).

2585 |  
2586 |       Reviser's note.--Amended to conform a reference to the  
2587 | location of material relating to best management  
2588 | practices in s. 403.067(7)(c); s. 403.067(7)(d) was  
2589 | amended and merged into paragraph (c) by s. 6, ch.  
2590 | 2005-166, Laws of Florida, and s. 13, ch. 2005-291,  
2591 | Laws of Florida.

2592 |  
2593 |       Section 69. Paragraph (a) of subsection (1) of section  
2594 | 608.4355, Florida Statutes, is amended to read:

2595 |       608.4355 Notice of intent to demand payment.--

2596 |       (1) If a proposed appraisal event is submitted to a vote at  
2597 | a members' meeting, or is submitted to a member pursuant to a  
2598 | consent vote, a member who is entitled to and who wishes to  
2599 | assert appraisal rights with respect to any class or series of  
2600 | membership interests:

2601 |       (a) Must deliver to a manager or managing member of the  
2602 | limited liability company before the vote is taken, or within 20  
2603 | days after receiving the notice pursuant to s. 608.4354(3)  
2604 | ~~608.4353(3)~~ if action is to be taken without a member meeting,  
2605 | written notice of such person's intent to demand payment if the  
2606 | proposed appraisal event is effectuated.

2607 |  
2608 |       Reviser's note.--Amended to conform to the fact that s.  
2609 | 608.4353 does not contain a subsection (3) and s.  
2610 | 608.4354(3) relates to notice in a situation where an

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2611 appraisal event is to be approved other than by a  
2612 member meeting.

2613  
2614 Section 70. Subsection (6) of section 608.4381, Florida  
2615 Statutes, is amended to read:

2616 608.4381 Action on plan of merger.--

2617 (6) A plan of merger may provide for the manner, if any, in  
2618 which the plan of merger may be amended at any time before the  
2619 effective date of the merger, except after the approval of the  
2620 plan of merger by the members of a limited liability company that  
2621 is a party to the merger, the plan of merger may not be amended  
2622 to:

2623 (a) Change the amount or kind of interests, partnership  
2624 interests, shares, obligations, other securities, cash, rights,  
2625 or any other property to be received by the members of such  
2626 limited liability company in exchange for or on conversion of  
2627 their interests;

2628 (b) If the surviving entity is a limited liability company,  
2629 change any term of the articles of organization or the operating  
2630 agreement of the surviving entity, except for changes that  
2631 otherwise could be adopted without the approval of the members of  
2632 the surviving entity;

2633 (c) If the surviving entity is not a limited liability  
2634 company, change any term of the articles of incorporation or  
2635 comparable governing document of the surviving entity, except for  
2636 changes that otherwise could be adopted by the board of directors  
2637 or comparable representatives of the surviving entity; or

2638 (d) Change any of the terms and conditions of the plan of  
2639 merger if any such change, alone or in the aggregate, would

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2640 materially and adversely affect the members, or any class or  
2641 group of members, of such limited liability company.

2642  
2643 If an amendment to a plan of merger is made in accordance with  
2644 the plan and articles of merger have been filed with the  
2645 Department of State, an amended certificate of merger executed by  
2646 each limited liability company and other business entity that is  
2647 a party to the merger shall be filed with the Department of State  
2648 prior to the effective date of the merger.

2649  
2650 Reviser's note.--Amended to confirm the insertion by  
2651 the editors of the word "with" following the word  
2652 "accordance" to improve clarity.

2653  
2654 Section 71. Subsection (5) of section 620.1108, Florida  
2655 Statutes, is amended to read:

2656 620.1108 Name.--

2657 (5) Subject to s. 620.1905 ~~620.905~~, this section applies to  
2658 any foreign limited partnership transacting business in this  
2659 state, having a certificate of authority to transact business in  
2660 this state, or applying for a certificate of authority.

2661  
2662 Reviser's note.--Amended to confirm the substitution by  
2663 the editors of a reference to s. 620.1905 for a  
2664 reference to s. 620.905, which does not exist. Section  
2665 620.1905 relates to noncomplying names of foreign  
2666 limited partnerships.

2667  
2668 Section 72. Paragraph (b) of subsection (2) of section

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2669 620.1110, Florida Statutes, is amended to read:

2670       620.1110 Effect of partnership agreement; nonwaivable

2671 provisions.--

2672       (2) A partnership agreement may not:

2673       (b) Vary the law applicable to a limited partnership under

2674 s. 620.1106 ~~620.106~~;

2675

2676       Reviser's note.--Amended to confirm the substitution by

2677 the editors of a reference to s. 620.1106 for a

2678 reference to s. 620.106, which was repealed by s. 25,

2679 ch. 2005-267, Laws of Florida. Section 620.1106 relates

2680 to governing law.

2681

2682       Section 73. Paragraphs (g) and (k) of subsection (1) of

2683 section 620.1204, Florida Statutes, are amended to read:

2684       620.1204 Signing of records.--

2685       (1) Each record delivered to the Department of State for

2686 filing pursuant to this act must be signed in the following

2687 manner:

2688       (g) A certificate of dissolution, a statement of

2689 termination, and a certificate of revocation of dissolution must

2690 be signed by all general partners listed in the certificate of

2691 limited partnership or, if the certificate of limited partnership

2692 of a dissolved limited partnership lists no general partners, by

2693 the person appointed pursuant to s. 620.1803(3) or (4) ~~620.803(3)~~

2694 ~~or (4)~~ to wind up the dissolved limited partnership's activities.

2695       (k) A statement by a person pursuant to s. 620.1605(2)

2696 ~~620.1605(1)-(d)~~ stating that the person has dissociated as a

2697 general partner must be signed by that person.

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2698

2699           Reviser's note.--Paragraph (1)(g) is amended to confirm

2700           the substitution by the editors of a reference to s.

2701           620.1803(3) or (4) for a reference to s. 620.803(3) or

2702           (4). Section 620.803 does not exist; s. 620.1803(3) and

2703           (4) relate to appointment of a person to wind up

2704           limited partnership activities. Paragraph (1)(k) is

2705           amended to correct a reference and conform to context;

2706           s. 620.1605(1)(d) does not exist; s. 620.1605(2)

2707           relates to a statement of dissociation.

2708

2709           Section 74. Paragraph (a) of subsection (3) of section

2710           620.1207, Florida Statutes, is amended to read:

2711           620.1207   Correcting filed record.--

2712           (3)   When filed by the Department of State, a statement of

2713           correction is effective retroactively as of the effective date of

2714           the record the statement corrects, but the statement is effective

2715           when filed:

2716           (a)   For the purposes of s. 620.1103(3) and (4) ~~620.103(3)~~

2717           and ~~(4)~~.

2718

2719           Reviser's note.--Amended to confirm the substitution by

2720           the editors of a reference to s. 620.1103(3) and (4)

2721           for a reference to s. 620.103(3) and (4). Section

2722           620.103 was repealed by s. 25, ch. 2005-267, Laws of

2723           Florida; s. 620.1103(3) and (4) relate to documents

2724           serving as notice of limited partnership and partner

2725           status.

2726

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2727           Section 75. Subsection (9) of section 620.1407, Florida  
2728 Statutes, is amended to read:

2729           620.1407 Right of general partner and former general  
2730 partner to information.--

2731           (9) The rights under this section do not extend to a person  
2732 as transferee, but the rights under subsection (3) of a person  
2733 dissociated as a general partner may be exercised by the legal  
2734 representative of an individual who dissociated as a general  
2735 partner under s. 620.1603(7)(b) or (c) ~~620.603(7)(b) or (c)~~.  
2736

2737           Reviser's note.--Amended to confirm the substitution by  
2738 the editors of a reference to s. 620.1603(7)(b) or (c)  
2739 for a reference to s. 620.603(7)(b) or (c). Section  
2740 620.603 does not exist; s. 620.1603(7)(b) and (c)  
2741 relate to dissociation of a general partner by virtue  
2742 of guardianship or incapacity, respectively.  
2743

2744           Section 76. Paragraph (b) of subsection (2) of section  
2745 620.2118, Florida Statutes, is amended to read:

2746           620.2118 Appraisal notice and form.--

2747           (2) The appraisal notice must be sent no earlier than the  
2748 date the appraisal event became effective and no later than 10  
2749 days after such date and must:

2750           (b) State:

2751           1. Where the form described in paragraph (a) must be sent.

2752           2. A date by which the limited partnership must receive the  
2753 form, which date may not be fewer than 40 or more than 60 days  
2754 after the date the appraisal notice and form described in this  
2755 subsection are sent, and state that the limited partner shall



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2756 have waived the right to demand appraisal with respect to the  
2757 limited partner interests unless the form is received by the  
2758 limited partnership by such specified date.

2759         3. In the case of limited partner interest represented by a  
2760 certificate, the location at which certificates for such  
2761 certificated partnership interests must be deposited, if that  
2762 action is required by the limited partnership, and the date by  
2763 which those certificates must be deposited, which date may not be  
2764 earlier than the date for receiving the required form under  
2765 subparagraph 2.

2766         4. The limited partnership's estimate of the fair value of  
2767 the limited partner interests.

2768         5. An offer to each limited partner who is entitled to  
2769 appraisal rights to pay the limited partnership's estimate of  
2770 fair value set forth in subparagraph 4.

2771         6. That, if requested in writing, the limited partnership  
2772 will provide to the limited partner so requesting, within 10 days  
2773 after the date specified in subparagraph 2., the number of  
2774 limited partners who return the forms by the specified date and  
2775 the total number of limited partner interests owned by them.

2776         7. The date by which the notice to withdraw under s.  
2777 620.2119 ~~620.1119~~ must be received, which date must be within 20  
2778 days after the date specified in subparagraph 2.

2779  
2780         Reviser's note.--Amended to correct a reference and  
2781 conform to context. Section 620.1119 does not exist; s.  
2782 620.2119 relates to the right to withdraw.

2783  
2784         Section 77. Subsection (1) of section 620.2120, Florida

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2785 Statutes, is amended to read:

2786       620.2120 Limited partner's acceptance of limited  
2787 partnership's offer.--

2788       (1) If the limited partner states on the form provided in  
2789 s. 620.2118(1) that the limited partner accepts the offer of the  
2790 limited partnership to pay the limited partnership's estimated  
2791 fair value for the limited partner interest, the limited  
2792 partnership shall make such payment to the limited partner within  
2793 90 days after the limited partnership's receipt of the items  
2794 required by s. 620.2119(1) ~~620.1119(1)~~.

2795  
2796       Reviser's note.--Amended to confirm the substitution by  
2797 the editors of a reference to s. 620.2119(1) for a  
2798 reference to s. 620.1119(1). Section 620.1119 does not  
2799 exist; s. 620.2119(1) relates to deposit of a limited  
2800 partner's certificates and corresponding loss of rights  
2801 as a limited partner.

2802  
2803       Section 78. Paragraphs (d) and (f) of subsection (3) of  
2804 section 620.2204, Florida Statutes, are amended to read:

2805       620.2204 Application to existing relationships.--

2806       (3) With respect to a limited partnership formed before  
2807 January 1, 2006, the following rules apply except as the partners  
2808 otherwise elect in the manner provided in the partnership  
2809 agreement or by law for amending the partnership agreement:

2810       (d) The provisions of s. 620.1603(4) ~~620.603(4)~~ do not  
2811 apply.

2812       (f) The provisions of s. 620.1801(1)(c) ~~620.1801(3)~~ do not  
2813 apply and the connection between a person's dissociation as a

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2814 | general partner and the dissolution of the limited partnership is  
2815 | the same as existed immediately before January 1, 2006.

2816 |  
2817 |       Reviser's note.--Paragraph (3)(d) is amended to confirm  
2818 |       the substitution by the editors of a reference to s.  
2819 |       620.1603(4) for a reference to s. 620.603(4). Section  
2820 |       620.603 does not exist; s. 620.1603(4) relates to  
2821 |       expulsion of a general partner. Paragraph (3)(f) is  
2822 |       amended to confirm the substitution by the editors of a  
2823 |       reference to s. 620.1801(1)(c) for a reference to s.  
2824 |       620.1801(3). Section 620.1801(3) does not exist; s.  
2825 |       620.1801(1)(c) relates to the dissociation of a general  
2826 |       partner and consent to continue or dissolve the limited  
2827 |       partnership.

2828 |  
2829 |       Section 79. Subsection (15) of section 620.8101, Florida  
2830 |       Statutes, is amended to read:

2831 |       620.8101 Definitions.--As used in this act, the term:  
2832 |       (15) "Statement" means a statement of partnership authority  
2833 |       under s. 620.8303, a statement of denial under s. 620.8304, a  
2834 |       statement of dissociation under s. 620.8704, a statement of  
2835 |       dissolution under s. 620.8805, a statement of merger under s.  
2836 |       620.8918 ~~620.8907~~, a statement of qualification under s.  
2837 |       620.9001, a statement of foreign qualification under s. 620.9102,  
2838 |       or an amendment or cancellation of any of the foregoing.

2839 |  
2840 |       Reviser's note.--Amended to conform to the repeal of s.  
2841 |       620.8907 by s. 25, ch. 2005-267, Laws of Florida.  
2842 |       Filings required for merger are now covered in s.

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2843           620.8918, including a reference to the statement of  
2844           merger.

2845  
2846           Section 80. Subsection (1) of section 620.8702, Florida  
2847 Statutes, is amended to read:

2848           620.8702 Dissociated partner's power to bind and liability  
2849 to partnership.--

2850           (1) For 1 year after a partner dissociates without  
2851 resulting in a dissolution and winding up of the partnership  
2852 business, the partnership, including a surviving partnership  
2853 under ss. 620.8911-620.8923 ~~620.8901-620.8908~~, is bound by an act  
2854 of the dissociated partner which would have bound the partnership  
2855 under s. 620.8301 before dissociation only if, at the time of  
2856 entering into the transaction, the other party:

2857           (a) Reasonably believed that the dissociated partner was  
2858 then a partner;

2859           (b) Did not have notice of the partner's dissociation; and

2860           (c) Is not deemed to have had knowledge under s.  
2861 620.8303(4) or notice under s. 620.8704(4).

2862  
2863           Reviser's note.--Amended to conform to the repeal of  
2864 ss. 620.8901-620.8908 relating to conversion of a  
2865 partnership to a limited partnership; conversion  
2866 procedures are now covered in ss. 620.8911-620.8923.

2867  
2868           Section 81. Subsection (2) of section 620.8703, Florida  
2869 Statutes, is amended to read:

2870           620.8703 Dissociated partner's liability to other  
2871 persons.--

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2872 (2) A partner who dissociates without resulting in a  
2873 dissolution and winding up of the partnership business is liable  
2874 as a partner to any other party to a transaction entered into by  
2875 the partnership, or a surviving partnership under ss. 620.8911-  
2876 620.8923 ~~620.8901-620.8908~~, within 1 year after the partner's  
2877 dissociation only if the partner is liable for the obligation  
2878 under s. 620.8306 and, at the time of entering into the  
2879 transaction, the other party:

2880 (a) Reasonably believed that the dissociated partner was  
2881 then a partner;

2882 (b) Did not have notice of the partner's dissociation; and

2883 (c) Is not deemed to have had knowledge under s.

2884 620.8303(4) or notice under s. 620.8704(4).

2885

2886 Reviser's note.--Amended to conform to the repeal of  
2887 ss. 620.8901-620.8908 relating to conversion of a  
2888 partnership to a limited partnership; conversion  
2889 procedures are now covered in ss. 620.8911-620.8923.

2890

2891 Section 82. Paragraph (a) of subsection (7) of section  
2892 624.501, Florida Statutes, is amended to read:

2893 624.501 Filing, license, appointment, and miscellaneous  
2894 fees.--The department, commission, or office, as appropriate,  
2895 shall collect in advance, and persons so served shall pay to it  
2896 in advance, fees, licenses, and miscellaneous charges as follows:

2897 (7) Life insurance agents.

2898 (a) Agent's original appointment and biennial renewal or  
2899 continuation thereof, each insurer or agent making an  
2900 appointment:

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2901        Appointment fee....\$42.00  
 2902        State tax....12.00  
 2903        County tax....6.00    Total....\$60.00  
 2904  
 2905        Reviser's note.--Amended to confirm the reinsertion by  
 2906        the editors of the word "fee" following the word  
 2907        "Appointment" to correct a coding error and conform to  
 2908        context.  
 2909  
 2910        Section 83. Paragraph (b) of subsection (5) of section  
 2911        624.509, Florida Statutes, is amended to read:  
 2912        624.509 Premium tax; rate and computation.--  
 2913        (5)  
 2914        (b) For purposes of this subsection:  
 2915        1. The term "salaries" does not include amounts paid as  
 2916        commissions.  
 2917        2. The term "employees" does not include independent  
 2918        contractors or any person whose duties require that the person  
 2919        hold a valid license under the Florida Insurance Code, except  
 2920        adjusters, managing general agents, and service representatives,  
 2921        as defined in s. 626.015.  
 2922        3. The term "net tax" means the tax imposed by this section  
 2923        after applying the calculations and credits set forth in  
 2924        subsection (4).  
 2925        4. An affiliated group of corporations that created a  
 2926        service company within its affiliated group on July 30, 2002,  
 2927        shall allocate the salary of each service company employee  
 2928        covered by contracts with affiliated group members to the  
 2929        companies for which the employees perform services. The salary

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2930 allocation is based on the amount of time during the tax year  
 2931 that the individual employee spends performing services or  
 2932 otherwise working for each company over the total amount of time  
 2933 the employee spends performing services or otherwise working for  
 2934 all companies. The total amount of salary allocated to an  
 2935 insurance company within the affiliated group shall be included  
 2936 as that insurer's employee salaries for purposes of this section.

2937       a. Except as provided in subparagraph (a)2. ~~subparagraph~~  
 2938 ~~2.~~, the term "affiliated group of corporations" means two or more  
 2939 corporations that are entirely owned by a single corporation and  
 2940 that constitute an affiliated group of corporations as defined in  
 2941 s. 1504(a) of the Internal Revenue Code.

2942       b. The term "service company" means a separate corporation  
 2943 within the affiliated group of corporations whose employees  
 2944 provide services to affiliated group members and which are  
 2945 treated as service company employees for unemployment  
 2946 compensation and common law purposes. The holding company of an  
 2947 affiliated group may not qualify as a service company. An  
 2948 insurance company may not qualify as a service company.

2949       c. If an insurance company fails to substantiate, whether  
 2950 by means of adequate records or otherwise, its eligibility to  
 2951 claim the service company exception under this section, or its  
 2952 salary allocation under this section, no credit shall be allowed.

2953       5. A service company that is a subsidiary of a mutual  
 2954 insurance holding company, which mutual insurance holding company  
 2955 was in existence on or before January 1, 2000, shall allocate the  
 2956 salary of each service company employee covered by contracts with  
 2957 members of the mutual insurance holding company system to the  
 2958 companies for which the employees perform services. The salary

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2959 | allocation is based on the ratio of the amount of time during the  
 2960 | tax year which the individual employee spends performing services  
 2961 | or otherwise working for each company to the total amount of time  
 2962 | the employee spends performing services or otherwise working for  
 2963 | all companies. The total amount of salary allocated to an  
 2964 | insurance company within the mutual insurance holding company  
 2965 | system shall be included as that insurer's employee salaries for  
 2966 | purposes of this section. However, this subparagraph does not  
 2967 | apply for any tax year unless funds sufficient to offset the  
 2968 | anticipated salary credits have been appropriated to the General  
 2969 | Revenue Fund prior to the due date of the final return for that  
 2970 | year.

2971 |       a. The term "mutual insurance holding company system" means  
 2972 | two or more corporations that are subsidiaries of a mutual  
 2973 | insurance holding company and in compliance with part IV of  
 2974 | chapter 628.

2975 |       b. The term "service company" means a separate corporation  
 2976 | within the mutual insurance holding company system whose  
 2977 | employees provide services to other members of the mutual  
 2978 | insurance holding company system and are treated as service  
 2979 | company employees for unemployment compensation and common-law  
 2980 | purposes. The mutual insurance holding company may not qualify as  
 2981 | a service company.

2982 |       c. If an insurance company fails to substantiate, whether  
 2983 | by means of adequate records or otherwise, its eligibility to  
 2984 | claim the service company exception under this section, or its  
 2985 | salary allocation under this section, no credit shall be allowed.  
 2986 |

2987 |       Reviser's note.--Amended to correct a reference and



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|      |  |  |
|------|--|--|
| 2988 |  | conform to context; subparagraph (5)(b)2. does not               |
| 2989 |  | reference affiliated groups of corporations; they are            |
| 2990 |  | covered in subparagraph (5)(a)2.                                 |
| 2991 |  |  |
| 2992 |  | Section 84. <u>Paragraph (d) of subsection (3) of section</u>    |
| 2993 |  | <u>624.91, Florida Statutes, is repealed.</u>                    |
| 2994 |  |  |
| 2995 |  | Reviser's note.--The cited paragraph, which authorizes           |
| 2996 |  | certain enrollees in the Healthy Kids program as of              |
| 2997 |  | January 31, 2004, to remain eligible until January 1,            |
| 2998 |  | 2005, has served its purpose.                                    |
| 2999 |  |  |
| 3000 |  | Section 85. <u>Paragraph (d) of subsection (2) of section</u>    |
| 3001 |  | <u>626.8411, Florida Statutes, is repealed.</u>                  |
| 3002 |  |  |
| 3003 |  | Reviser's note.--The cited paragraph, which provides             |
| 3004 |  | that s. 626.592 does not apply to title insurance                |
| 3005 |  | agents or agencies, is obsolete; s. 626.592 was                  |
| 3006 |  | repealed by s. 32, ch. 2005-257, Laws of Florida.                |
| 3007 |  |  |
| 3008 |  | Section 86. Paragraph (b) of subsection (4) of section           |
| 3009 |  | 626.9911, Florida Statutes, is amended to read:                  |
| 3010 |  | 626.9911 Definitions.--As used in this act, the term:            |
| 3011 |  | (4) "Life expectancy provider" means a person who                |
| 3012 |  | determines, or holds himself or herself out as determining, life |
| 3013 |  | expectancies or mortality ratings used to determine life         |
| 3014 |  | expectancies:  |
| 3015 |  | (b) In connection with a viatical settlement investment,         |
| 3016 |  | pursuant to s. <u>517.021(23)</u> <del>517.021(22)</del> ; or    |

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3017  
 3018       Reviser's note.--Amended to correct a reference and  
 3019       conform to context. Section 517.021(22) defines  
 3020       "underwriter"; s. 517.021(23) defines "viatical  
 3021       settlement investment."  
 3022  
 3023       Section 87. Paragraph (d) of subsection (6) of section  
 3024       627.351, Florida Statutes, is amended to read:  
 3025       627.351 Insurance risk apportionment plans.--  
 3026       (6) CITIZENS PROPERTY INSURANCE CORPORATION.--  
 3027       (d)1. It is the intent of the Legislature that the rates  
 3028       for coverage provided by the corporation be actuarially sound and  
 3029       not competitive with approved rates charged in the admitted  
 3030       voluntary market, so that the corporation functions as a residual  
 3031       market mechanism to provide insurance only when the insurance  
 3032       cannot be procured in the voluntary market. Rates shall include  
 3033       an appropriate catastrophe loading factor that reflects the  
 3034       actual catastrophic exposure of the corporation.  
 3035       2. For each county, the average rates of the corporation  
 3036       for each line of business for personal lines residential policies  
 3037       excluding rates for wind-only policies shall be no lower than the  
 3038       average rates charged by the insurer that had the highest average  
 3039       rate in that county among the 20 insurers with the greatest total  
 3040       direct written premium in the state for that line of business in  
 3041       the preceding year, except that with respect to mobile home  
 3042       coverages, the average rates of the corporation shall be no lower  
 3043       than the average rates charged by the insurer that had the  
 3044       highest average rate in that county among the 5 insurers with the  
 3045       greatest total written premium for mobile home owner's policies

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3046 | in the state in the preceding year.

3047 |       3. Rates for personal lines residential wind-only policies  
3048 | must be actuarially sound and not competitive with approved rates  
3049 | charged by authorized insurers. Corporation rate manuals shall  
3050 | include a rate surcharge for seasonal occupancy. To ensure that  
3051 | personal lines residential wind-only rates are not competitive  
3052 | with approved rates charged by authorized insurers, the  
3053 | corporation, in conjunction with the office, shall develop a  
3054 | wind-only ratemaking methodology, which methodology shall be  
3055 | contained in each rate filing made by the corporation with the  
3056 | office. If the office determines that the wind-only rates or  
3057 | rating factors filed by the corporation fail to comply with the  
3058 | wind-only ratemaking methodology provided for in this subsection,  
3059 | it shall so notify the corporation and require the corporation to  
3060 | amend its rates or rating factors to come into compliance within  
3061 | 90 days of notice from the office.

3062 |       4. For the purposes of establishing a pilot program to  
3063 | evaluate issues relating to the availability and affordability of  
3064 | insurance in an area where historically there has been little  
3065 | market competition, the provisions of subparagraph 2. do not  
3066 | apply to coverage provided by the corporation in Monroe County if  
3067 | the office determines that a reasonable degree of competition  
3068 | does not exist for personal lines residential policies. The  
3069 | provisions of subparagraph 3. do not apply to coverage provided  
3070 | by the corporation in Monroe County if the office determines that  
3071 | a reasonable degree of competition does not exist for personal  
3072 | lines residential policies in the area of that county which is  
3073 | eligible for wind-only coverage. In this county, the rates for  
3074 | personal lines residential coverage shall be actuarially sound

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3075 and not excessive, inadequate, or unfairly discriminatory and are  
3076 subject to the other provisions of the paragraph and s. 627.062.  
3077 The commission shall adopt rules establishing the criteria for  
3078 determining whether a reasonable degree of competition exists for  
3079 personal lines residential policies in Monroe County. By March 1,  
3080 2006, the office shall submit a report to the Legislature  
3081 providing an evaluation of the implementation of the pilot  
3082 program affecting Monroe County.

3083         5. Rates for commercial lines coverage shall not be subject  
3084 to the requirements of subparagraph 2., but shall be subject to  
3085 all other requirements of this paragraph and s. 627.062.

3086         6. Nothing in this paragraph shall require or allow the  
3087 corporation to adopt a rate that is inadequate under s. 627.062.

3088         7. The corporation shall certify to the office at least  
3089 twice annually that its personal lines rates comply with the  
3090 requirements of subparagraphs 1. and 2. If any adjustment in the  
3091 rates or rating factors of the corporation is necessary to ensure  
3092 such compliance, the corporation shall make and implement such  
3093 adjustments and file its revised rates and rating factors with  
3094 the office. If the office thereafter determines that the revised  
3095 rates and rating factors fail to comply with the provisions of  
3096 subparagraphs 1. and 2., it shall notify the corporation and  
3097 require the corporation to amend its rates or rating factors in  
3098 conjunction with its next rate filing. The office must notify the  
3099 corporation by electronic means of any rate filing it approves  
3100 for any insurer among the insurers referred to in subparagraph 2.

3101         8. In addition to the rates otherwise determined pursuant  
3102 to this paragraph, the corporation shall impose and collect an  
3103 amount equal to the premium tax provided for in s. 624.509 to

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3104 | augment the financial resources of the corporation.

3105 |       9.a. To assist the corporation in developing additional

3106 | ratemaking methods to assure compliance with subparagraphs 1. and

3107 | 5. ~~4.~~, the corporation shall appoint a rate methodology panel

3108 | consisting of one person recommended by the Florida Association

3109 | of Insurance Agents, one person recommended by the Professional

3110 | Insurance Agents of Florida, one person recommended by the

3111 | Florida Association of Insurance and Financial Advisors, one

3112 | person recommended by the insurer with the highest voluntary

3113 | market share of residential property insurance business in the

3114 | state, one person recommended by the insurer with the second-

3115 | highest voluntary market share of residential property insurance

3116 | business in the state, one person recommended by an insurer

3117 | writing commercial residential property insurance in this state,

3118 | one person recommended by the Office of Insurance Regulation, and

3119 | one board member designated by the board chairman, who shall

3120 | serve as chairman of the panel.

3121 |       b. By January 1, 2004, the rate methodology panel shall

3122 | provide a report to the corporation of its findings and

3123 | recommendations for the use of additional ratemaking methods and

3124 | procedures, including the use of a rate equalization surcharge in

3125 | an amount sufficient to assure that the total cost of coverage

3126 | for policyholders or applicants to the corporation is sufficient

3127 | to comply with subparagraph 1.

3128 |       c. Within 30 days after such report, the corporation shall

3129 | present to the President of the Senate, the Speaker of the House

3130 | of Representatives, the minority party leaders of each house of

3131 | the Legislature, and the chairs of the standing committees of

3132 | each house of the Legislature having jurisdiction of insurance

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3133 | issues, a plan for implementing the additional ratemaking methods  
3134 | and an outline of any legislation needed to facilitate use of the  
3135 | new methods.

3136 |       d. The plan must include a provision that producer  
3137 | commissions paid by the corporation shall not be calculated in  
3138 | such a manner as to include any rate equalization surcharge.  
3139 | However, without regard to the plan to be developed or its  
3140 | implementation, producer commissions paid by the corporation for  
3141 | each account, other than the quota share primary program, shall  
3142 | remain fixed as to percentage, effective rate, calculation, and  
3143 | payment method until January 1, 2004.

3144 |       10. By January 1, 2004, the corporation shall develop a  
3145 | notice to policyholders or applicants that the rates of Citizens  
3146 | Property Insurance Corporation are intended to be higher than the  
3147 | rates of any admitted carrier and providing other information the  
3148 | corporation deems necessary to assist consumers in finding other  
3149 | voluntary admitted insurers willing to insure their property.

3150 |  
3151 |       Reviser's note.--Amended to conform to the  
3152 | redesignation of subparagraph (6)(d)4. as subparagraph  
3153 | (6)(d)5. by s. 7, ch. 2005-111, Laws of Florida.

3154 |  
3155 |       Section 88. Paragraph (d) of subsection (6) of section  
3156 | 627.3511, Florida Statutes, is amended to read:

3157 |       627.3511 Depopulation of Citizens Property Insurance  
3158 | Corporation.--

3159 |       (6) COMMERCIAL RESIDENTIAL TAKE-OUT PLANS.--

3160 |       (d) The calculation of an insurer's regular assessment  
3161 | liability under s. 627.351(6)(b)3.a. and b. ~~627.351(b)3.a. and~~

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3162 ~~b.~~, but not emergency assessments collected from policyholders  
3163 pursuant to s. 627.351(6)(b)3.d., shall, with respect to  
3164 commercial residential policies removed from the corporation  
3165 under an approved take-out plan, exclude such removed policies  
3166 for the succeeding 3 years, as follows:

3167       1. In the first year following removal of the policies, the  
3168 policies are excluded from the calculation to the extent of 100  
3169 percent.

3170       2. In the second year following removal of the policies,  
3171 the policies are excluded from the calculation to the extent of  
3172 75 percent.

3173       3. In the third year following removal of the policies, the  
3174 policies are excluded from the calculation to the extent of 50  
3175 percent.

3176  
3177       Reviser's note.--Amended to correct a reference and  
3178 conform to context. The cite to s. 627.351(b)3.a. and  
3179 b. does not reference the subsection within s. 627.351  
3180 where the referenced material is located; based on  
3181 context, a reference to s. 627.351(6)(b)3.a. and b.,  
3182 relating to levy of assessments on assessable insurers  
3183 with specified deficits, was substituted for the  
3184 incomplete cite.

3185  
3186       Section 89. Subsection (1) of section 627.6418, Florida  
3187 Statutes, is amended to read:

3188       627.6418 Coverage for mammograms.--

3189       (1) An accident or health insurance policy issued, amended,  
3190 delivered, or renewed in this state must provide coverage for at

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3191 | least the following:

3192 |       (a) A baseline mammogram for any woman who is 35 years of  
3193 | age or older, but younger than 40 years of age.

3194 |       (b) A mammogram every 2 years for any woman who is 40 years  
3195 | of age or older, but younger than 50 years of age, or more  
3196 | frequently based on the patient's physician's recommendation.

3197 |       (c) A mammogram every year for any woman who is 50 years of  
3198 | age or older.

3199 |       (d) One or more mammograms a year, based upon a physician's  
3200 | recommendation, for any woman who is at risk for breast cancer  
3201 | because of a personal or family history of breast cancer, because  
3202 | of having a history of biopsy-proven benign breast disease,  
3203 | because of having a mother, sister, or daughter who has or has  
3204 | had breast cancer, or because a woman has not given birth before  
3205 | the age of 30.

3206 |  
3207 | ~~It is the intent of the Legislature that, when practice~~  
3208 | ~~parameters for the delivery of mammography services are developed~~  
3209 | ~~pursuant to s. 408.02(7), the Legislature review the requirements~~  
3210 | ~~of this section and conform to the practice parameters.~~

3211 |  
3212 |       Reviser's note.--Amended to delete a provision that has  
3213 | served its purpose. The practice parameters to be  
3214 | reviewed were to be developed pursuant to s. 408.02(7),  
3215 | which was repealed by s. 42, ch. 2004-297, Laws of  
3216 | Florida.

3217 |  
3218 |       Section 90. Subsection (1) of section 627.6613, Florida  
3219 | Statutes, is amended to read:



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3220           627.6613 Coverage for mammograms.--

3221           (1) A group, blanket, or franchise accident or health

3222 insurance policy issued, amended, delivered, or renewed in this

3223 state must provide coverage for at least the following:

3224           (a) A baseline mammogram for any woman who is 35 years of

3225 age or older, but younger than 40 years of age.

3226           (b) A mammogram every 2 years for any woman who is 40 years

3227 of age or older, but younger than 50 years of age, or more

3228 frequently based on the patient's physician's recommendation.

3229           (c) A mammogram every year for any woman who is 50 years of

3230 age or older.

3231           (d) One or more mammograms a year, based upon a physician's

3232 recommendation, for any woman who is at risk for breast cancer

3233 because of a personal or family history of breast cancer, because

3234 of having a history of biopsy-proven benign breast disease,

3235 because of having a mother, sister, or daughter who has or has

3236 had breast cancer, or because a woman has not given birth before

3237 the age of 30.

3238

3239 ~~It is the intent of the Legislature that, when practice~~

3240 ~~parameters for the delivery of mammography services are developed~~

3241 ~~pursuant to s. 408.02(7), the Legislature review the requirements~~

3242 ~~of this section and conform to the practice parameters.~~

3243

3244           Reviser's note.--Amended to delete a provision that has

3245 served its purpose. The practice parameters to be

3246 reviewed were to be developed pursuant to s. 408.02(7),

3247 which was repealed by s. 42, ch. 2004-297, Laws of

3248 Florida.

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3249  
 3250           Section 91.   Section 627.711, Florida Statutes, is amended  
 3251 to read:  
 3252           627.711   Notice of premium discounts for hurricane loss  
 3253 mitigation.--Using a form prescribed by the Office of Insurance  
 3254 Regulation, the insurer shall clearly notify the applicant or  
 3255 policyholder of any personal lines residential property insurance  
 3256 policy, at the time of the issuance of the policy and at each  
 3257 renewal, of the availability and the range of each premium  
 3258 discount, credit, other rate differential, or reduction in  
 3259 deductibles for properties on which fixtures or construction  
 3260 techniques demonstrated to reduce the amount of loss in a  
 3261 windstorm can be or have been installed or implemented. The  
 3262 prescribed form shall describe generally what actions the  
 3263 policyholders may be able to take to reduce their windstorm  
 3264 premium. The prescribed form and a list of such ranges approved  
 3265 by the office for each insurer licensed in the state and  
 3266 providing such discounts, credits, other rate differentials, or  
 3267 reductions in deductibles for properties described in this  
 3268 subsection shall be available for electronic viewing and download  
 3269 from the Department of Financial Services' or the Office of  
 3270 Insurance Regulation's Internet website. The Financial Services  
 3271 Commission may adopt rules to implement this subsection.  
 3272  
 3273           Reviser's note.--Amended to confirm the insertion by  
 3274 the editors of the word "be" following the word "can"  
 3275 to improve clarity.  
 3276  
 3277           Section 92.   Paragraph (a) of subsection (5) of section

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3278 627.7295, Florida Statutes, is amended to read:  
 3279 627.7295 Motor vehicle insurance contracts.--  
 3280 (5)(a) A licensed general lines agent may charge a per-  
 3281 policy fee not to exceed \$10 to cover the administrative costs of  
 3282 the agent associated with selling the motor vehicle insurance  
 3283 policy if the policy covers only personal injury protection  
 3284 coverage as provided by s. 627.736 and property damage liability  
 3285 coverage as provided by s. 627.7275 and if no other insurance is  
 3286 sold or issued in conjunction with or collateral to the policy.  
 3287 The fee is not considered part of the premium.

3288  
 3289 Reviser's note.--Amended to reinsert language  
 3290 inadvertently deleted during the 2005 editorial  
 3291 process.

3292  
 3293 Section 93. Section 633.026, Florida Statutes, is amended  
 3294 to read:  
 3295 633.026 Informal interpretations of the Florida Fire  
 3296 Prevention Code.--The Division of State Fire Marshal shall by  
 3297 rule establish an informal process of rendering nonbinding  
 3298 interpretations of the Florida Fire Prevention Code. The Division  
 3299 of State Fire Marshal may contract with and refer interpretive  
 3300 issues to a nonprofit organization that has experience in  
 3301 interpreting and enforcing the Florida Fire Prevention Code. The  
 3302 Division of State Fire Marshal shall immediately implement the  
 3303 process prior to the completion of formal rulemaking. It is the  
 3304 intent of the Legislature that the Division of State Fire Marshal  
 3305 create a process to refer questions to a small group of  
 3306 individuals certified under s. 633.081(2), to which a party can

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3307 | pose questions regarding the interpretation of code provisions.  
 3308 | It is the intent of the Legislature that the process provide for  
 3309 | the expeditious resolution of the issues presented and  
 3310 | publication of the resulting interpretation on the website of the  
 3311 | Division of State Fire Marshal. It is the intent of the  
 3312 | Legislature that this program be similar to the program  
 3313 | established by the Florida Building Commission in s.  
 3314 | 553.775(3)(g) ~~553.77(7)~~. Such interpretations shall be advisory  
 3315 | only and nonbinding on the parties or the State Fire Marshal. In  
 3316 | order to administer this section, the department may adopt by  
 3317 | rule and impose a fee for nonbinding interpretations, with  
 3318 | payment made directly to the third party. The fee may not exceed  
 3319 | \$150 for each request for a review or interpretation.

3320 |  
 3321 |       Reviser's note.--Amended to conform to the deletion of  
 3322 |       s. 553.77(7) by s. 8, ch. 2005-147, Laws of Florida,  
 3323 |       and the addition of substantially similar language at  
 3324 |       s. 553.775(3)(g) by s. 9, ch. 2005-147.

3325 |  
 3326 |       Section 94. Subsection (3) of section 633.539, Florida  
 3327 | Statutes, is amended to read:

3328 |       633.539 Requirements for installation, inspection, and  
 3329 | maintenance of fire protection systems.--

3330 |       (3) For contracts written after June 30, 2005, the  
 3331 | contractor who installs the underground piping from the point of  
 3332 | service is responsible for completing the installation to the  
 3333 | aboveground connection flange, which by definition in this  
 3334 | chapter is no more than 1 foot above the finished floor, before  
 3335 | completing the Contractor's Material and Test Certificate for

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3336 Underground Piping document. Aboveground contractors may not  
3337 complete the Contractor's Material and Test Certificate for  
3338 Underground Piping document for underground piping or portions  
3339 thereof which have been installed by others.

3340

3341 Reviser's note.--Amended to confirm the insertion by  
3342 the editors of the word "piping" following the word  
3343 "underground" to improve clarity.

3344

3345 Section 95. Section 634.021, Florida Statutes, is amended  
3346 to read:

3347 634.021 Powers of department, commission, and office;  
3348 rules.--The office shall administer this act and the commission  
3349 may adopt rules pursuant to ss. 120.536(1) and 120.54 to  
3350 implement the provisions of this act related to motor vehicle  
3351 service agreement companies and motor vehicle service agreements.  
3352 The department shall administer this act and may adopt rules  
3353 pursuant to ss. 120.536(1) and 120.54 to implement provisions of  
3354 this act related to sales representatives.

3355

3356 Reviser's note.--Amended to improve clarity and conform  
3357 to the designation of companies that provide motor  
3358 vehicle service agreement products throughout part I of  
3359 chapter 634.

3360

3361 Section 96. Paragraph (a) of subsection (13) of section  
3362 634.401, Florida Statutes, is amended to read:

3363 634.401 Definitions.--As used in this part, the term:  
3364 (13) "Service warranty" means any warranty, guaranty,

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3365 | extended warranty or extended guaranty, maintenance service  
 3366 | contract equal to or greater than 1 year in length or which does  
 3367 | not meet the exemption in paragraph (a), contract agreement, or  
 3368 | other written promise for a specific duration to perform the  
 3369 | repair, replacement, or maintenance of a consumer product, or for  
 3370 | indemnification for repair, replacement, or maintenance, for  
 3371 | operational or structural failure due to a defect in materials or  
 3372 | workmanship, normal wear and tear, power surge, or accidental  
 3373 | damage from handling in return for the payment of a segregated  
 3374 | charge by the consumer; however:

3375 |       (a) Maintenance service contracts written for less than 1  
 3376 | year which do not contain provisions for indemnification and  
 3377 | which do not provide a discount to the consumer for any  
 3378 | combination of parts and labor in excess of 20 percent during the  
 3379 | effective period of such contract, motor vehicle service  
 3380 | agreements, transactions exempt under s. 624.125, and home  
 3381 | warranties subject to regulation under part ~~parts I and II~~ of  
 3382 | this chapter are excluded from this definition;

3383 |

3384 |       Reviser's note.--Amended to correct a reference and  
 3385 | conform to context. Part II of chapter 634 regulates  
 3386 | home warranty associations; part I of chapter 634  
 3387 | regulates motor vehicle service agreement companies.

3388 |

3389 |       Section 97. Subsection (2) of section 636.223, Florida  
 3390 | Statutes, is amended to read:

3391 |       636.223 Administrative penalty.--In lieu of suspending or  
 3392 | revoking a certificate of authority whenever any discount medical  
 3393 | plan organization has been found to have violated any provision

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3394 | of this part, the office may:

3395 |       (2) Impose a monetary penalty of not less than ~~that~~ \$100  
3396 | for each violation, but not to exceed an aggregate penalty of  
3397 | \$75,000.

3398 |  
3399 |       Reviser's note.--Amended to confirm the substitution by  
3400 |       the editors of the word "than" for the word "that" to  
3401 |       conform to context and improve clarity.

3402 |  
3403 |       Section 98. Paragraph (a) of subsection (40) of section  
3404 | 641.31, Florida Statutes, is amended to read:

3405 |       641.31 Health maintenance contracts.--

3406 |       (40)(a) Any group rate, rating schedule, or rating manual  
3407 | for a health maintenance organization policy, which provides  
3408 | creditable coverage as defined in s. 627.6561(5), filed with the  
3409 | office shall provide for an appropriate rebate of premiums paid  
3410 | in the last policy year, contract year, or calendar year when the  
3411 | majority of members of a health plan are enrolled in and have  
3412 | maintained participation in any health wellness, maintenance, or  
3413 | improvement program offered by the group contract holder. The  
3414 | group must provide evidence of demonstrative maintenance or  
3415 | improvement of his or her health status as determined by  
3416 | assessments of agreed-upon health status indicators between the  
3417 | group and the health insurer, including, but not limited to,  
3418 | reduction in weight, body mass index, and smoking cessation. Any  
3419 | rebate provided by the health maintenance organization is  
3420 | presumed to be appropriate unless credible data demonstrates  
3421 | otherwise, or unless the rebate program requires the insured to  
3422 | incur costs to qualify for the rebate which equals or exceeds the

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3423 value of the rebate but the rebate may not exceed 10 percent of  
3424 paid premiums.

3425  
3426       Reviser's note.--Amended to confirm the insertion by  
3427       the editors of the word "have" following the word "and"  
3428       to improve clarity.

3429  
3430       Section 99. Subsection (4) of section 658.12, Florida  
3431 Statutes, is amended to read:

3432       658.12 Definitions.--Subject to other definitions contained  
3433 in the financial institutions codes and unless the context  
3434 otherwise requires:

3435       (4) "Branch" or "branch office" of a bank means any office  
3436 or place of business of a bank, other than its main office and  
3437 the facilities and operations authorized by ss. 658.26(4)  
3438 ~~658.26(5)~~, 658.65, and 660.33, at which deposits are received,  
3439 checks are paid, or money is lent. With respect to a bank which  
3440 has a trust department, the terms "branch" and "branch office"  
3441 have the meanings herein ascribed to a branch or a branch office  
3442 of a trust company. "Branch" or "branch office" of a trust  
3443 company means any office or place of business of a trust company,  
3444 other than its main office and its trust service offices  
3445 established pursuant to s. 660.33, where trust business is  
3446 transacted with its customers.

3447  
3448       Reviser's note.--Amended to conform to the  
3449 redesignation of s. 658.26(5), relating to armored car  
3450 services, to s. 658.26(4) by s. 15, ch. 2004-340, Laws  
3451 of Florida, and s. 98, ch. 2004-390, Laws of Florida.



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Section 100. Section 694.16, Florida Statutes, is amended to read:

694.16 Conveyances by merger or conversion of business entities.--As to any merger or conversion of business entities prior to June 15, 2000, the title to all real estate, or any interest therein, owned by a business entity that was a party to a merger or a conversion is vested in the surviving entity without reversion or impairment, notwithstanding the requirement of a deed which was previously required by s. 607.11101, s. 608.4383, former s. 620.204, former s. 620.8904, or former s. 620.8906.

Reviser's note.--Amended to conform to the repeal of ss. 620.204, 620.8904, and 620.8906 by s. 25, ch. 2005-267, Laws of Florida.

Section 101. Paragraph (b) of subsection (2) of section 721.13, Florida Statutes, is amended to read:

721.13 Management.--

(2)

(b) The managing entity shall invest the operating and reserve funds of the timeshare plan in accordance with s. 518.11(1); however, the managing entity shall give safety of capital greater weight than production of income. In no event shall the managing entity invest timeshare plan funds with a developer or with any entity that is not independent of any developer or any managing entity within the meaning of s. 721.05(22) ~~721.05(20)~~, and in no event shall the managing entity

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3481 | invest timeshare plan funds in notes and mortgages related in any  
3482 | way to the timeshare plan.

3483 |  
3484 |       Reviser's note.--Amended to conform to the  
3485 |       redesignation of s. 721.05(20), defining the term  
3486 |       "managing entity," as s. 721.05(22) by s. 3, ch. 2004-  
3487 |       279, Laws of Florida.

3488 |  
3489 |       Section 102. Subsection (6) of section 732.103, Florida  
3490 |       Statutes, is amended to read:

3491 |       732.103 Share of other heirs.--The part of the intestate  
3492 |       estate not passing to the surviving spouse under s. 732.102, or  
3493 |       the entire intestate estate if there is no surviving spouse,  
3494 |       descends as follows:

3495 |       (6) If none of the foregoing, and if any of the descendants  
3496 |       of the decedent's great-grandparents were Holocaust victims as  
3497 |       defined in s. 626.9543(3)(a) ~~626.9543(3)(b)~~, including such  
3498 |       victims in countries cooperating with the discriminatory policies  
3499 |       of Nazi Germany, then to the lineal descendants of the great-  
3500 |       grandparents. The court shall allow any such descendant to meet a  
3501 |       reasonable, not unduly restrictive, standard of proof to  
3502 |       substantiate his or her lineage. This subsection only applies to  
3503 |       escheated property and shall cease to be effective for  
3504 |       proceedings filed after December 31, 2004.

3505 |  
3506 |       Reviser's note.--Amended to conform to the  
3507 |       redesignation of s. 626.9543(3)(b) as s. 626.9543(3)(a)  
3508 |       by s. 76, ch. 2004-390, Laws of Florida.

3509 |

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3510           Section 103. Subsection (1) of section 739.104, Florida  
3511 Statutes, is amended to read:

3512           739.104 Power to disclaim; general requirements; when  
3513 irrevocable.--

3514           (1) A person may disclaim, in whole or in part,  
3515 conditionally or unconditionally, any interest in or power over  
3516 property, including a power of ~~or~~ appointment. A person may  
3517 disclaim the interest or power even if its creator imposed a  
3518 spendthrift provision or similar restriction on transfer or a  
3519 restriction or limitation on the right to disclaim. A disclaimer  
3520 shall be unconditional unless the disclaimant explicitly provides  
3521 otherwise in the disclaimer.

3522

3523           Reviser's note.--Amended to conform to context.

3524

3525           Section 104. Subsection (1) and paragraph (d) of subsection  
3526 (5) of section 765.101, Florida Statutes, are amended to read:

3527           765.101 Definitions.--As used in this chapter:

3528           (1) "Advance directive" means a witnessed written document  
3529 or oral statement in which instructions are given by a principal  
3530 or in which the principal's desires are expressed concerning any  
3531 aspect of the principal's health care, and includes, but is not  
3532 limited to, the designation of a health care surrogate, a living  
3533 will, or an anatomical gift made pursuant to part V ~~X~~ of chapter  
3534 765 ~~732~~.

3535           (5) "Health care decision" means:

3536           (d) The decision to make an anatomical gift pursuant to  
3537 part V ~~X~~ of chapter 765 ~~732~~.

3538

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3539 Reviser's note.--Amended to conform to the transfer of  
3540 material in former part X of chapter 732 to part V of  
3541 chapter 765 pursuant to ch. 2001-226, Laws of Florida.

3542  
3543 Section 105. Subsection (23) of section 774.203, Florida  
3544 Statutes, is amended to read:

3545 774.203 Definitions.--As used in this act, the term:

3546 (23) "Qualified physician" means a medical doctor, who:

3547 (a) Is a board-certified pathologist licensed to practice  
3548 and actively practices in this country who performed services  
3549 requested or authorized by a physician who:

3550 1. Has conducted a physical examination of the exposed  
3551 person or, if the person is deceased, has reviewed all available  
3552 records relating to the exposed person's medical condition;

3553 2. Is actually treating or has treated the exposed person,  
3554 and has or had a doctor-patient relationship with the person; and

3555 3. Is licensed to practice and actively practices in this  
3556 country; or

3557 (b) Is a board-certified oncologist, pulmonary specialist,  
3558 or specialist in occupational and environmental medicine who:

3559 1. Has conducted a physical examination of the exposed  
3560 person or, if the person is deceased, has reviewed all available  
3561 records relating to the exposed person's medical condition;

3562 2. Is actually treating or has treated the exposed person,  
3563 and has or had a doctor-patient relationship with the person; and

3564 3. Is licensed to practice and actively practices in this  
3565 country.

3566

3567 Reviser's note.--Amended to confirm the insertion by

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3568           the editors of the word "has" following the word "or"  
3569           to improve clarity.

3570  
3571           Section 106. Paragraph (f) of subsection (2) of section  
3572   774.204, Florida Statutes, is amended to read:

3573           774.204 Physical impairment.--

3574           (2) A person may not file or maintain a civil action  
3575   alleging a nonmalignant asbestos claim in the absence of a prima  
3576   facie showing of physical impairment as a result of a medical  
3577   condition to which exposure to asbestos was a substantial  
3578   contributing factor. The prima facie showing must include all of  
3579   the following requirements:

3580           (f) A determination by a qualified physician that  
3581   asbestosis or diffuse pleural thickening, rather than chronic  
3582   obstructive pulmonary disease, is a substantial contributing  
3583   factor to the exposed person's physical impairment, based at a  
3584   minimum on a determination that the exposed person has:

3585           1. Total lung capacity, by plethysmography or timed gas  
3586   dilution, below the predicted lower limit of normal;

3587           2. Forced vital capacity below the lower limit of normal  
3588   and a ratio of FEV1 to FVC that is equal to or greater than the  
3589   predicted lower limit of normal; or

3590           3. A chest X ray showing small, irregular opacities (s, t,  
3591   u) graded by a certified B-reader as at least 2/1 on the ILO  
3592   scale.

3593  
3594           Reviser's note.--Amended to confirm the insertion by  
3595   the editors of the word "as" following the term  
3596   "certified B-reader" to improve clarity.

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3597  
3598 Section 107. Subsection (3) of section 774.205, Florida  
3599 Statutes, is amended to read:  
3600 774.205 Claimant proceedings.--  
3601 (3) All asbestos claims and silica claims filed in this  
3602 state on or after the effective date of this act must include, in  
3603 addition to the written report described in subsection (2)  
3604 ~~subsection (3) of section 5~~ and the information required by s.  
3605 774.207(2), a sworn information form containing the following  
3606 information:  
3607 (a) The claimant's name, address, date of birth, and  
3608 marital status;  
3609 (b) If the claimant alleges exposure to asbestos or silica  
3610 through the testimony of another person or alleges other than  
3611 direct or bystander exposure to a product, the name, address,  
3612 date of birth, and marital status for each person by which the  
3613 claimant alleges exposure, hereinafter the "index person," and  
3614 the claimant's relationship to each such person;  
3615 (c) The specific location of each alleged exposure;  
3616 (d) The beginning and ending dates of each alleged exposure  
3617 as to each asbestos product or silica product for each location  
3618 at which exposure allegedly took place for the plaintiff and each  
3619 index person;  
3620 (e) The occupation and name of the employer of the exposed  
3621 person at the time of each alleged exposure;  
3622 (f) The specific condition related to asbestos or silica  
3623 claimed to exist; and  
3624 (g) Any supporting documentation of the condition claimed  
3625 to exist.

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3626  
3627 Reviser's note.--The introductory paragraph of  
3628 subsection (3) is amended to confirm the substitution  
3629 of a reference to "subsection (2)" for a reference to  
3630 "subsection (3) of section 5" of ch. 2005-274, Laws of  
3631 Florida. Subsection (2) describes the written report.  
3632 Paragraph (3)(b) is amended to confirm the insertion by  
3633 the editors of the word "and" following the word  
3634 "birth" to improve clarity.

3635  
3636 Section 108. Paragraph (b) of subsection (1) of section  
3637 774.208, Florida Statutes, is amended to read:

3638 774.208 Liability rules applicable to protect sellers,  
3639 renters, and lessors.--

3640 (1)

3641 (b) For the purpose of sub-subparagraph (a)1.b. ~~sub-~~  
3642 ~~subparagraph 1.b.~~, a product seller may not be considered to have  
3643 failed to exercise reasonable care with respect to a product  
3644 based upon an alleged failure to inspect the product, if:

3645 1. The failure occurred because there was no reasonable  
3646 opportunity to inspect the product; or

3647 2. The inspection, in the exercise of reasonable care,  
3648 would not have revealed the aspect of the product which allegedly  
3649 caused the exposed person's impairment.

3650  
3651 Reviser's note.--Amended to confirm the substitution by  
3652 the editors of a reference to sub-subparagraph (a)1.b.  
3653 for a reference to sub-subparagraph 1.b. Paragraph (b)  
3654 does not contain a sub-subparagraph 1.b.; sub-

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3655            subparagraph (a)1.b., relating to failure of a product  
3656            seller to use reasonable care with respect to the  
3657            product, conforms to context.

3658  
3659            Section 109. Paragraph (b) of subsection (4) of section  
3660            784.046, Florida Statutes, is amended to read:

3661            784.046 Action by victim of repeat violence, sexual  
3662            violence, or dating violence for protective injunction; powers  
3663            and duties of court and clerk of court; filing and form of  
3664            petition; notice and hearing; temporary injunction; issuance;  
3665            statewide verification system; enforcement.--

3666            (4)

3667            (b) The sworn petition must be in substantially the  
3668            following form:

3669

3670                            PETITION FOR INJUNCTION FOR PROTECTION

3671                            AGAINST REPEAT VIOLENCE, SEXUAL

3672                            VIOLENCE, OR DATING VIOLENCE

3673

3674            Before me, the undersigned authority, personally appeared  
3675            Petitioner (Name) , who has been sworn and says that the  
3676            following statements are true:

3677

3678            1. Petitioner resides at (address) (A petitioner for an  
3679            injunction for protection against sexual violence may furnish an  
3680            address to the court in a separate confidential filing if, for  
3681            safety reasons, the petitioner requires the location of his or  
3682            her current residence to be confidential pursuant to s.  
3683            119.071(2)(j) ~~119.07(6)(s)~~, Florida Statutes.)



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3684 2. Respondent resides at (address)  
 3685 3.a. Petitioner has suffered repeat violence as  
 3686 demonstrated by the fact that the respondent has:  
 3687 (enumerate incidents of violence)  
 3688 \_\_\_\_\_  
 3689 \_\_\_\_\_  
 3690 \_\_\_\_\_  
 3691  
 3692 b. Petitioner has suffered sexual violence as demonstrated  
 3693 by the fact that the respondent has: (enumerate incident of  
 3694 violence and include incident report number from law enforcement  
 3695 agency or attach notice of inmate release.)  
 3696  
 3697 \_\_\_\_\_  
 3698 \_\_\_\_\_  
 3699 \_\_\_\_\_  
 3700  
 3701 c. Petitioner is a victim of dating violence and has  
 3702 reasonable cause to believe that he or she is in imminent danger  
 3703 of becoming the victim of another act of dating violence or has  
 3704 reasonable cause to believe that he or she is in imminent danger  
 3705 of becoming a victim of dating violence, as demonstrated by the  
 3706 fact that the respondent has: (list the specific incident or  
 3707 incidents of violence and describe the length of time of the  
 3708 relationship, whether it has been in existence during the last 6  
 3709 months, the nature of the relationship of a romantic or intimate  
 3710 nature, the frequency and type of interaction, and any other  
 3711 facts that characterize the relationship.)  
 3712

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\_\_\_\_\_

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks: an immediate injunction against the respondent, enjoining him or her from committing any further acts of violence; an injunction enjoining the respondent from committing any further acts of violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and the petitioner's immediate family, including any injunctions or directives to law enforcement agencies.

Reviser's note.--Amended to conform to the redesignation of s. 119.07(6)(s) as s. 119.071(2)(j) by s. 17, ch. 2005-251, Laws of Florida.

Section 110. Paragraph (p) of subsection (3) of section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:

(p) Investigators employed by the capital collateral

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3742 regional counsel ~~representative~~, while actually carrying out  
 3743 official duties, provided such investigators:  
 3744       1. Are employed full time;  
 3745       2. Meet the official training standards for firearms as  
 3746 established by the Criminal Justice Standards and Training  
 3747 Commission as provided in s. 943.12(1) and the requirements of  
 3748 ss. 493.6108(1)(a) and 943.13(1)-(4); and  
 3749       3. Are individually designated by an affidavit of consent  
 3750 signed by the capital collateral regional counsel ~~representative~~  
 3751 and filed with the clerk of the circuit court in the county in  
 3752 which the investigator is headquartered.  
 3753  
 3754       Reviser's note.--Amended to conform to the replacement  
 3755 of the capital collateral representative with capital  
 3756 collateral regional counsel in s. 27.701 by s. 1, ch.  
 3757 97-313, Laws of Florida.  
 3758  
 3759       Section 111. Paragraph (e) of subsection (2) of section  
 3760 872.05, Florida Statutes, is amended to read:  
 3761       872.05 Unmarked human burials.--  
 3762       (2) DEFINITIONS.--As used in this section:  
 3763       (e) "State Archaeologist" means the person employed by the  
 3764 division pursuant to s. 267.031(7) ~~267.031(6)~~.  
 3765  
 3766       Reviser's note.--Amended to conform to the  
 3767 redesignation of s. 267.031(6) as s. 267.031(7) by s.  
 3768 1, ch. 2004-91, Laws of Florida.  
 3769  
 3770       Section 112. Paragraph (c) of subsection (1) of section

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3771 | 895.09, Florida Statutes, is amended to read:  
 3772 |       895.09   Disposition of funds obtained through forfeiture  
 3773 | proceedings.--  
 3774 |       (1)   A court entering a judgment of forfeiture in a  
 3775 | proceeding brought pursuant to s. 895.05 shall retain  
 3776 | jurisdiction to direct the distribution of any cash or of any  
 3777 | cash proceeds realized from the forfeiture and disposition of the  
 3778 | property.   The court shall direct the distribution of the funds  
 3779 | in the following order of priority:  
 3780 |       (c)   Any claim by the Board of Trustees of the Internal  
 3781 | Improvement Trust Fund on behalf of the Internal Improvement  
 3782 | Trust Fund or the Land Acquisition Trust Fund pursuant to s.  
 3783 | 253.03(12) ~~253.03(13)~~, not including administrative costs of the  
 3784 | Department of Environmental Protection previously paid directly  
 3785 | from the Internal Improvement Trust Fund in accordance with  
 3786 | legislative appropriation.  
 3787 |  
 3788 |       Reviser's note.--Amended to conform to the  
 3789 | redesignation of s. 253.03(13) as s. 253.03(12) by s.  
 3790 | 22, ch. 2004-234, Laws of Florida.  
 3791 |  
 3792 |       Section 113.   Paragraph (c) of subsection (1) of section  
 3793 | 938.29, Florida Statutes, is amended to read:  
 3794 |       938.29   Legal assistance; lien for payment of attorney's  
 3795 | fees or costs.--  
 3796 |       (1)  
 3797 |       (c)   The defendant shall pay the application fee under s.  
 3798 | 27.52(1)(b) ~~27.52(2)(a)~~ and attorney's fees and costs in full or  
 3799 | in installments, at the time or times specified. The court may

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3800 | order payment of the assessed application fee and attorney's fees  
3801 | and costs as a condition of probation, of suspension of sentence,  
3802 | or of withholding the imposition of sentence. Attorney's fees and  
3803 | costs collected under this section shall be deposited into the  
3804 | General Revenue Fund.

3805 |  
3806 |       Reviser's note.--Amended to conform to the substantial  
3807 |       rewording of s. 27.52 by s. 3, ch. 2005-236, Laws of  
3808 |       Florida; the application fee requirement is now in s.  
3809 |       27.52(1)(b).

3810 |  
3811 |       Section 114. Section 943.04353, Florida Statutes, is  
3812 | amended to read:

3813 |       943.04353 Triennial study of sexual predator and sexual  
3814 | offender registration and notification procedures.--The Office of  
3815 | Program Policy Analysis and Government Accountability shall,  
3816 | every 3 years, perform a study of the effectiveness of Florida's  
3817 | sexual predator and sexual offender registration process and  
3818 | community and public notification provisions. As part of  
3819 | determining the effectiveness of the registration process, OPPAGA  
3820 | shall examine the current practices of: the Department of  
3821 | Corrections, county probation offices, clerk of courts, court  
3822 | administrators, county jails and booking facilities, Department  
3823 | of Children and Family Services, judges, state attorneys'  
3824 | offices, Department of Highway Safety and Motor Vehicles,  
3825 | Department of Law Enforcement, and local law enforcement agencies  
3826 | as they relate to: sharing of offender information regarding  
3827 | registered sexual predators and sexual offenders for purposes of  
3828 | fulfilling the requirements set forth ~~fourth~~ in the registration

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3829 | laws; ensuring the most accurate, current, and comprehensive  
 3830 | information is provided in a timely manner to the registry;  
 3831 | ensuring the effective supervision and subsequent monitoring of  
 3832 | sexual predators and offenders; and ensuring informed decisions  
 3833 | are made at each point of the criminal justice and registration  
 3834 | process. In addition to determining the effectiveness of the  
 3835 | registration process, the report shall focus on the question of  
 3836 | whether the notification provisions in statute are sufficient to  
 3837 | apprise communities of the presence of sexual predators and  
 3838 | sexual offenders. The report shall examine how local law  
 3839 | enforcement agencies collect and disseminate information in an  
 3840 | effort to notify the public and communities of the presence of  
 3841 | sexual predators and offenders. If the report finds deficiencies  
 3842 | in the registration process, the notification provisions, or  
 3843 | both, the report shall provide options for correcting those  
 3844 | deficiencies and shall include the projected cost of implementing  
 3845 | those options. In conducting the study, the Office of Program  
 3846 | Policy Analysis and Government Accountability shall consult with  
 3847 | the Florida Council Against Sexual Violence and the Florida  
 3848 | Association for the Treatment of Sexual Abusers in addition to  
 3849 | other interested entities that may offer experiences and  
 3850 | perspectives unique to this area of research. The report shall be  
 3851 | submitted to the President of the Senate and the Speaker of the  
 3852 | House of Representatives by January 1, 2006.

3853 |  
 3854 |       Reviser's note.--Amended to confirm the substitution by  
 3855 |       the editors of the word "forth" for the word "fourth"  
 3856 |       to conform to context.

3857 |

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3858           Section 115. Subsection (4) of section 948.012, Florida  
3859 Statutes, is amended to read:  
3860           948.012 Split sentence of probation or community control  
3861 and imprisonment.--  
3862           (4) Effective for offenses committed on or after September  
3863 1, 2005, the court must impose a split sentence pursuant to  
3864 subsection (1) for any person who is convicted of a life felony  
3865 for lewd and lascivious molestation pursuant to s. 800.04(5)(b)  
3866 if the court imposes a term of years in accordance with s.  
3867 775.082(3)(a)4.b. ~~775.082(3)4.b.~~ rather than life imprisonment.  
3868 The probation or community control portion of the split sentence  
3869 imposed by the court for a defendant must extend for the duration  
3870 of the defendant's natural life and include a condition that he  
3871 or she be electronically monitored.

3872  
3873           Reviser's note.--Amended to correct a reference.  
3874           Section 4, ch. 2005-28, Laws of Florida, added  
3875 subparagraph (3)(a)4., relating to punishment for  
3876 conviction of a life felony committed on or after  
3877 September 1, 2005, which is a violation of s.  
3878 800.04(5)(b); the subparagraph includes a sub-  
3879 subparagraph a., providing for imprisonment for life,  
3880 and a sub-subparagraph b., providing for a split  
3881 sentence of a term of years followed by probation or  
3882 community control for the remainder of the offender's  
3883 life.

3884  
3885           Section 116. Paragraph (i) of subsection (1) of section  
3886 948.03, Florida Statutes, is amended to read:

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3887            948.03   Terms and conditions of probation.--

3888            (1)   The court shall determine the terms and conditions of

3889 probation. Conditions specified in this section do not require

3890 oral pronouncement at the time of sentencing and may be

3891 considered standard conditions of probation. These conditions may

3892 include among them the following, that the probationer or

3893 offender in community control shall:

3894            (i)   Pay any application fee assessed under s. 27.52(1)(b)

3895 ~~27.52(2)(a)~~ and attorney's fees and costs assessed under s.

3896 938.29, subject to modification based on change of circumstances.

3897

3898            Reviser's note.--Amended to conform to the substantial

3899 rewording of s. 27.52 by s. 3, ch. 2005-236, Laws of

3900 Florida; the application fee requirement is now in s.

3901 27.52(1)(b).

3902

3903            Section 117.   Subsection (2) of section 948.061, Florida

3904 Statutes, is amended to read:

3905            948.061   Identifying, assessing, and monitoring high-risk

3906 sex offenders on community supervision; providing cumulative

3907 criminal and supervision histories on the Internet.--

3908            (2)   To facilitate the information available to the court at

3909 first appearance hearings and at all subsequent hearings for

3910 these high-risk sex offenders, the department shall, no later

3911 than March 1, 2006, post on FDLE's Criminal Justice Intranet a

3912 cumulative chronology of the sex offender's prior terms of state

3913 probation and community control, including all substantive or

3914 technical violations of state probation or community control. The

3915 county jail in the county where the arrested person is booked



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3916 shall ensure ~~insure~~ that state and national criminal history  
 3917 information and all criminal justice information available in the  
 3918 Florida Crime Information Center and the National Crime  
 3919 Information Center, is provided to the court at the time of the  
 3920 first appearance. The courts shall assist the department's  
 3921 dissemination of critical information by creating and maintaining  
 3922 an automated system to provide the information as specified in  
 3923 this subsection and by providing the necessary technology in the  
 3924 courtroom to deliver the information.

3925  
 3926       Reviser's note.--Amended to confirm the substitution by  
 3927       the editors of the word "ensure" for the word "insure"  
 3928       to conform to context.

3929  
 3930       Section 118. Paragraphs (d) and (j) of subsection (1) of  
 3931 section 948.062, Florida Statutes, are amended to read:

3932       948.062 Reviewing and reporting serious offenses committed  
 3933 by offenders placed on probation or community control.--

3934       (1) The department shall review the circumstances related  
 3935 to an offender placed on probation or community control who has  
 3936 been arrested while on supervision for the following offenses:

3937       (d) Any kidnapping, false imprisonment, or luring of a  
 3938 child as provided in s. 787.01, s. 787.02 ~~782.07~~, or s. 787.025;

3939       (j) Any DUI manslaughter as provided in s. 316.193(3)(c),  
 3940 or vehicular or vessel homicide as provided in s. 782.071 or s.  
 3941 782.072 ~~787.072~~, committed by any person who is on probation or  
 3942 community control for an offense involving death or injury  
 3943 resulting from a driving incident.

3944

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3945           Reviser's note.--Paragraph (1)(d) is amended to correct  
3946           a reference and conform to context. Section 782.07  
3947           relates to manslaughter; s. 787.02 relates to false  
3948           imprisonment. Paragraph (1)(j) is amended to correct a  
3949           reference and conform to context. Section 787.072 does  
3950           not exist; s. 782.072 relates to vessel homicide.

3951  
3952           Section 119. Paragraph (b) of subsection (7) of section  
3953           1008.25, Florida Statutes, is amended to read:

3954           1008.25 Public school student progression; remedial  
3955           instruction; reporting requirements.--

3956           (7) SUCCESSFUL PROGRESSION FOR RETAINED READERS.--

3957           (b) Beginning with the 2004-2005 school year, each school  
3958           district shall:

3959           1. Conduct a review of student academic improvement plans  
3960           for all students who did not score above Level 1 on the reading  
3961           portion of the FCAT and did not meet the criteria for one of the  
3962           good cause exemptions in paragraph (6)(b). The review shall  
3963           address additional supports and services, as described in this  
3964           subsection, needed to remediate the identified areas of reading  
3965           deficiency. The school district shall require a student portfolio  
3966           to be completed for each such student.

3967           2. Provide students who are retained under the provisions  
3968           of paragraph (5)(b) with intensive instructional services and  
3969           supports to remediate the identified areas of reading deficiency,  
3970           including a minimum of 90 minutes of daily, uninterrupted,  
3971           scientifically research-based reading instruction and other  
3972           strategies prescribed by the school district, which may include,  
3973           but are not limited to:

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3974 |       a. Small group instruction.

3975 |       b. Reduced teacher-student ratios.

3976 |       c. More frequent progress monitoring.

3977 |       d. Tutoring or mentoring.

3978 |       e. Transition classes containing 3rd and 4th grade

3979 | students.

3980 |       f. Extended school day, week, or year.

3981 |       g. Summer reading camps.

3982 |       3. Provide written notification to the parent of any

3983 | student who is retained under the provisions of paragraph (5)(b)

3984 | that his or her child has not met the proficiency level required

3985 | for promotion and the reasons the child is not eligible for a

3986 | good cause exemption as provided in paragraph (6)(b). The

3987 | notification must comply with the provisions of s. 1002.20(15)

3988 | ~~1002.20(14)~~ and must include a description of proposed

3989 | interventions and supports that will be provided to the child to

3990 | remediate the identified areas of reading deficiency.

3991 |       4. Implement a policy for the midyear promotion of any

3992 | student retained under the provisions of paragraph (5)(b) who can

3993 | demonstrate that he or she is a successful and independent

3994 | reader, reading at or above grade level, and ready to be promoted

3995 | to grade 4. Tools that school districts may use in reevaluating

3996 | any student retained may include subsequent assessments,

3997 | alternative assessments, and portfolio reviews, in accordance

3998 | with rules of the State Board of Education. Students promoted

3999 | during the school year after November 1 must demonstrate

4000 | proficiency above that required to score at Level 2 on the grade

4001 | 3 FCAT, as determined by the State Board of Education. The State

4002 | Board of Education shall adopt standards that provide a

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4003 reasonable expectation that the student's progress is sufficient  
4004 to master appropriate 4th grade level reading skills.

4005         5. Provide students who are retained under the provisions  
4006 of paragraph (5)(b) with a high-performing teacher as determined  
4007 by student performance data and above-satisfactory performance  
4008 appraisals.

4009         6. In addition to required reading enhancement and  
4010 acceleration strategies, provide parents of students to be  
4011 retained with at least one of the following instructional  
4012 options:

4013             a. Supplemental tutoring in scientifically research-based  
4014 reading services in addition to the regular reading block,  
4015 including tutoring before and/or after school.

4016             b. A "Read at Home" plan outlined in a parental contract,  
4017 including participation in "Families Building Better Readers  
4018 Workshops" and regular parent-guided home reading.

4019             c. A mentor or tutor with specialized reading training.

4020         7. Establish a Reading Enhancement and Acceleration  
4021 Development (READ) Initiative. The focus of the READ Initiative  
4022 shall be to prevent the retention of grade 3 students and to  
4023 offer intensive accelerated reading instruction to grade 3  
4024 students who failed to meet standards for promotion to grade 4  
4025 and to each K-3 student who is assessed as exhibiting a reading  
4026 deficiency. The READ Initiative shall:

4027             a. Be provided to all K-3 students at risk of retention as  
4028 identified by the statewide assessment system used in Reading  
4029 First schools. The assessment must measure phonemic awareness,  
4030 phonics, fluency, vocabulary, and comprehension.

4031             b. Be provided during regular school hours in addition to

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4032 the regular reading instruction.

4033       c. Provide a state-identified reading curriculum that has  
4034 been reviewed by the Florida Center for Reading Research at  
4035 Florida State University and meets, at a minimum, the following  
4036 specifications:

4037       (I) Assists students assessed as exhibiting a reading  
4038 deficiency in developing the ability to read at grade level.

4039       (II) Provides skill development in phonemic awareness,  
4040 phonics, fluency, vocabulary, and comprehension.

4041       (III) Provides scientifically based and reliable  
4042 assessment.

4043       (IV) Provides initial and ongoing analysis of each  
4044 student's reading progress.

4045       (V) Is implemented during regular school hours.

4046       (VI) Provides a curriculum in core academic subjects to  
4047 assist the student in maintaining or meeting proficiency levels  
4048 for the appropriate grade in all academic subjects.

4049       8. Establish at each school, where applicable, an Intensive  
4050 Acceleration Class for retained grade 3 students who subsequently  
4051 score at Level 1 on the reading portion of the FCAT. The focus of  
4052 the Intensive Acceleration Class shall be to increase a child's  
4053 reading level at least two grade levels in 1 school year. The  
4054 Intensive Acceleration Class shall:

4055       a. Be provided to any student in grade 3 who scores at  
4056 Level 1 on the reading portion of the FCAT and who was retained  
4057 in grade 3 the prior year because of scoring at Level 1 on the  
4058 reading portion of the FCAT.

4059       b. Have a reduced teacher-student ratio.

4060       c. Provide uninterrupted reading instruction for the

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4061 majority of student contact time each day and incorporate  
4062 opportunities to master the grade 4 Sunshine State Standards in  
4063 other core subject areas.

4064 d. Use a reading program that is scientifically research-  
4065 based and has proven results in accelerating student reading  
4066 achievement within the same school year.

4067 e. Provide intensive language and vocabulary instruction  
4068 using a scientifically research-based program, including use of a  
4069 speech-language therapist.

4070 f. Include weekly progress monitoring measures to ensure  
4071 progress is being made.

4072 g. Report to the Department of Education, in the manner  
4073 described by the department, the progress of students in the  
4074 class at the end of the first semester.

4075 9. Report to the State Board of Education, as requested, on  
4076 the specific intensive reading interventions and supports  
4077 implemented at the school district level. The Commissioner of  
4078 Education shall annually prescribe the required components of  
4079 requested reports.

4080 10. Provide a student who has been retained in grade 3 and  
4081 has received intensive instructional services but is still not  
4082 ready for grade promotion, as determined by the school district,  
4083 the option of being placed in a transitional instructional  
4084 setting. Such setting shall specifically be designed to produce  
4085 learning gains sufficient to meet grade 4 performance standards  
4086 while continuing to remediate the areas of reading deficiency.

4087  
4088 Reviser's note.--Amended to conform to the  
4089 redesignation of s. 1002.20(14) as s. 1002.20(15) by s.

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4090           5, ch. 2004-42, Laws of Florida.

4091

4092           Section 120. Subsection (7) of section 1013.30, Florida  
4093 Statutes, is amended to read:

4094           1013.30 University campus master plans and campus  
4095 development agreements.--

4096           (7) Notice that the campus master plan has been adopted  
4097 must be forwarded within 45 days after its adoption to any  
4098 affected person that submitted comments on the draft campus  
4099 master plan. The notice must state how and where a copy of the  
4100 master plan may be obtained or inspected. Within 30 days after  
4101 receipt of the notice of adoption of the campus master plan, or  
4102 30 days after the date the adopted plan is available for review,  
4103 whichever is later, an affected person who submitted comments on  
4104 the draft master plan may petition the university board of  
4105 trustees, challenging the campus master plan as not being in  
4106 compliance with this section or any rule adopted under this  
4107 section. The petition must state each objection, identify its  
4108 source, and provide a recommended action. A petition filed by an  
4109 affected local government may raise only those issues directly  
4110 pertaining to the public facilities or services that the affected  
4111 local government provides to or maintains within the campus or to  
4112 the direct impact that campus development would have on the  
4113 affected local government. A petition filed by an affected person  
4114 must include those items required by the uniform rules adopted  
4115 under s. 120.54(5). Any affected person who files a petition  
4116 under this subsection may challenge only those provisions in the  
4117 plan that were raised by that person's oral or written comments,  
4118 recommendations, or objections presented to the university board

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4119 of trustees, as required by paragraph (2)(b) ~~s. 1013.30(1)(b)~~.  
 4120 The university may, during the pendency of a challenge, negotiate  
 4121 a campus development agreement as provided in subsection (11).  
 4122

4123       Reviser's note.--Amended to confirm the substitution by  
 4124       the editors of a reference to paragraph (2)(b) for a  
 4125       reference to "s. 1013.30(1)(b)," which does not exist.  
 4126       Paragraph (2)(b) defines the term "affected person."  
 4127

4128       Section 121. Except as otherwise provided herein, this act  
 4129 shall take effect on the 60th day after adjournment sine die of  
 4130 the session of the Legislature in which enacted.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB RCC 06-02 Florida Statutes - Reviser's Bill  
**SPONSOR(S):** Rules & Calendar Council  
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE                             | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|---------|----------------|
| Orig. Comm.: Rules & Calendar Council |        | Sayler  | Rubottom       |
| 1) _____                              | _____  | _____   | _____          |
| 2) _____                              | _____  | _____   | _____          |
| 3) _____                              | _____  | _____   | _____          |
| 4) _____                              | _____  | _____   | _____          |
| 5) _____                              | _____  | _____   | _____          |

### SUMMARY ANALYSIS

The Division of Statutory Revision of the Office of the Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

PCB RCC 06-02 deletes statutory provisions that have been repealed by a noncurrent (past-year) session of the Legislature where that repeal or expiration date has now occurred, rendering the provision of no effect (an example would be a repeal set for October 1, 2005, by the 2004 Regular Session of the Legislature). Except by report of the Rules & Calendar Council, a reviser's bill cannot be amended except to delete a bill section.

This bill has no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

***Provide limited government***— The bill deletes from the published statutes provisions no longer effective.

#### B. EFFECT OF PROPOSED CHANGES:

This bill will delete sections that have already been repealed by the Legislature by substantive legislation that the Division of Statutory Revision has no power to remove text from the statutes without proposing to do so in a reviser's bill.

#### C. SECTION DIRECTORY:

**Sections 1-19** are repealing provisions which expired pursuant to its own terms or were repealed by the Legislature.

**Sections 20-22** are amending a provision to conform to a repeal of another provision and to remove obsolete cross-references.

**Section 23** is confirming the repeal of a provision which was previously repealed by the Legislature effective 1, 2005.

**Section 24** is providing for an effective date.

For more specific information explaining each section, the bill itself contains reviser's notes written by the Division of Statutory Revision.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

N/A

##### 2. Expenditures:

N/A

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

N/A

##### 2. Expenditures:

N/A

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

**D. FISCAL COMMENTS:**

N/A

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

N/A

**2. Other:**

N/A

**B. RULE-MAKING AUTHORITY:**

N/A

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

N/A

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

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1                   A reviser's bill to be entitled  
2           An act relating to the Florida Statutes; repealing ss.  
3           16.555(3)(b), 212.08(5)(p), 216.181(17), 220.03(1)(x),  
4           265.702(7)(b), 287.057(5)(f)14., 311.07(3)(b)11.,  
5           375.045(5), 381.79(3)(b), 386.206(1) and (5), 394.908(8),  
6           403.08725(9)(b), 409.913(8)(g), 468.404(1)(b), 470.001,  
7           470.002, 470.003, 470.005, 470.019, 470.023, 470.027,  
8           470.028, 470.031, 470.033, 470.034, 470.035, 470.036,  
9           497.105, 497.109, 497.111, 497.113, 497.115, 497.117,  
10          497.119, 497.123, 497.125, 497.127, 497.129, 497.131,  
11          497.135, 497.137, 497.209, 497.217, 497.221, 497.225,  
12          497.233, 497.301, 497.341, 497.431, 497.435, 497.443,  
13          497.445, 497.447, 497.515, 497.517, 497.519, 497.529,  
14          559.904(12), 561.121(4)(b), 624.91(3)(c), and 957.03,  
15          F.S., all of which provisions have become inoperative by  
16          noncurrent repeal or expiration and, pursuant to s.  
17          11.242(5)(b) and (i), may be omitted from the 2006 Florida  
18          Statutes only through a reviser's bill duly enacted by the  
19          Legislature; amending ss. 287.042, 943.053, and 943.325,  
20          F.S., to conform to the repeal of s. 957.03, F.S.; and  
21          repealing s. 957.04(8), F.S., to conform to the repeal of  
22          s. 957.03, F.S.

23  
24   Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Paragraph (b) of subsection (3) of section  
27   16.555, Florida Statutes, is repealed.

28  
29           Reviser's note.--The cited paragraph, which relates to  
30   use of moneys in the Crime Stoppers Trust Fund for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Delete  
Reviser's

V

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31 department expenses for the 2004-2005 fiscal year only,  
32 expired pursuant to its own terms, effective July 1,  
33 2005.

34  
35 Section 2. Paragraph (p) of subsection (5) of section  
36 212.08, Florida Statutes, is repealed.

37  
38 Reviser's note.--The cited paragraph, which relates to  
39 a sales tax exemption for certain equipment used to  
40 deploy broadband technologies, was repealed pursuant to  
41 its own terms, effective June 30, 2005.

42  
43 Section 3. Subsection (17) of section 216.181, Florida  
44 Statutes, is repealed.

45  
46 Reviser's note.--The cited subsection, which authorizes  
47 the Agency for Health Care Administration to submit a  
48 specified budget amendment in order to implement  
49 Specific Appropriation 216 of the 2004-2005 General  
50 Appropriations Act upon the happening of a certain  
51 event, expired pursuant to its own terms, effective  
52 July 1, 2005.

53  
54 Section 4. Paragraph (x) of subsection (1) of section  
55 220.03, Florida Statutes, is repealed.

56  
57 Reviser's note.--The cited paragraph, which defines  
58 "Secretary" as the secretary of the Department of  
59 Commerce, which department no longer exists, expired  
60 pursuant to its own terms, effective June 30, 2005.

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61  
62       Section 5. Paragraph (b) of subsection (7) of section  
63 265.702, Florida Statutes, is repealed.

64  
65       Reviser's note.--The cited paragraph, which relates to  
66 a limit on the amount of a grant for regional cultural  
67 facilities for the 2004-2005 fiscal year only, expired  
68 pursuant to its own terms, effective July 1, 2005.

69  
70       Section 6. Subparagraph 14. of paragraph (f) of subsection  
71 (5) of section 287.057, Florida Statutes, is repealed.

72  
73       Reviser's note.--The cited subparagraph, which provides  
74 that specified voter education activities of the  
75 Department of State are not subject to competitive-  
76 solicitation requirements under s. 287.057, expired  
77 pursuant to its own terms, effective July 1, 2005.

78  
79       Section 7. Subparagraph 11. of paragraph (b) of subsection  
80 (3) of section 311.07, Florida Statutes, is repealed.

81  
82       Reviser's note.--The cited subparagraph, which lists  
83 seaport security measures among projects eligible for  
84 funding under the Florida Seaport Transportation and  
85 Economic Development Program, expired pursuant to its  
86 own terms, effective June 30, 2005.

87  
88       Section 8. Subsection (5) of section 375.045, Florida  
89 Statutes, is repealed.

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91        Reviser's note.--The cited subsection, which authorizes  
92        the use of certain unobligated moneys from the Florida  
93        Preservation 2000 Trust Fund for appropriation to the  
94        Florida Forever Trust Fund for use pursuant to s.  
95        259.1051 for the 2004-2005 fiscal year only, expired  
96        pursuant to its own terms, effective July 1, 2005.

97  
98        Section 9. Paragraph (b) of subsection (3) of section  
99        381.79, Florida Statutes, is repealed.

100  
101        Reviser's note.--The cited paragraph, which authorizes  
102        appropriation of certain revenues from the Brain and  
103        Spinal Cord Injury Program Trust Fund for spinal cord  
104        injury and brain injury research at the University of  
105        Miami for the 2004-2005 fiscal year only, expired  
106        pursuant to its own terms, effective July 1, 2005.

107  
108        Section 10. Subsections (1) and (5) of section 386.206,  
109        Florida Statutes, are repealed.

110  
111        Reviser's note.--Subsection (1), which relates to  
112        signage requirements relating to the smoking ban in  
113        enclosed indoor workplaces, expired pursuant to  
114        subsection (5) of s. 386.206, effective July 1, 2005.

115  
116        Section 11. Subsection (8) of section 394.908, Florida  
117        Statutes, is repealed.

118  
119        Reviser's note.--The cited subsection, which relates to  
120        allocation of specified funds relating to substance

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121 abuse and mental health services for the 2004-2005  
122 fiscal year only, expired pursuant to its own terms,  
123 effective July 1, 2005.

124  
125 Section 12. Paragraph (b) of subsection (9) of section  
126 403.08725, Florida Statutes, is repealed.

127  
128 Reviser's note.--The cited paragraph, which provides,  
129 for the 2004-2005 fiscal year only, for inapplicability  
130 of certain construction requirements if the United  
131 States Environmental Protection Agency fails to approve  
132 certain revisions to the state implementation plan  
133 within 4 years after submittal, expired pursuant to its  
134 own terms, effective July 1, 2005.

135  
136 Section 13. Paragraph (g) of subsection (8) of section  
137 409.913, Florida Statutes, is repealed.

138  
139 Reviser's note.--The cited paragraph, which provides an  
140 exemption from specified requirements for Medicaid  
141 reimbursement where notifying a pharmacy at the point  
142 of sale that a prescription will be approved is not  
143 practical, expired pursuant to its own terms, effective  
144 July 1, 2005.

145  
146 Section 14. Paragraph (b) of subsection (1) of section  
147 468.404, Florida Statutes, is repealed.

148  
149 Reviser's note.--The cited paragraph, which relates to  
150 the assessment level for talent agency license fees for

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151 the 2004-2005 fiscal year only, expired pursuant to its  
152 own terms, effective July 1, 2005.

153  
154 Section 15. Sections 470.001, 470.002, 470.003, 470.005,  
155 470.019, 470.023, 470.027, 470.028, 470.031, 470.033, 470.034,  
156 470.035, 470.036, 497.105, 497.109, 497.111, 497.113, 497.115,  
157 497.117, 497.119, 497.123, 497.125, 497.127, 497.129, 497.131,  
158 497.135, 497.137, 497.209, 497.217, 497.221, 497.225, 497.233,  
159 497.301, 497.341, 497.431, 497.435, 497.443, 497.445, 497.447,  
160 497.515, 497.517, 497.519, and 497.529, Florida Statutes, are  
161 repealed.

162  
163 Reviser's note.--The cited sections, which relate to  
164 the funeral and cemetery industry, were repealed by s.  
165 157, ch. 2004-301, Laws of Florida, effective October  
166 1, 2005. Since the sections were not repealed by a  
167 "current session" of the Legislature, they may be  
168 omitted from the 2006 Florida Statutes only through a  
169 reviser's bill duly enacted by the Legislature. See s.  
170 11.242(5)(b) and (i).

171  
172 Section 16. Subsection (12) of section 559.904, Florida  
173 Statutes, is repealed.

174  
175 Reviser's note.--The cited subsection, which provides  
176 for rulemaking authority to stagger motor vehicle  
177 repair shop registrations over a 2-year period in order  
178 to implement biennial registration requirements,  
179 expired pursuant to its own terms, effective June 30,  
180 2005.

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181  
182       Section 17. Paragraph (b) of subsection (4) of section  
183 561.121, Florida Statutes, is repealed.

184  
185       Reviser's note.--The cited paragraph, which authorizes  
186 use of moneys in the Children and Adolescents Substance  
187 Abuse Trust Fund to fund programs directed at reducing  
188 and eliminating substance abuse problems among adults  
189 for the 2004-2005 fiscal year only, expired pursuant to  
190 its own terms, effective July 1, 2005.

191  
192       Section 18. Paragraph (c) of subsection (3) of section  
193 624.91, Florida Statutes, is repealed.

194  
195       Reviser's note.--The cited paragraph, which relates to  
196 eligibility for Healthy Kids benefits of individuals  
197 who attained the age of 19 as of March 31, 2004, was  
198 repealed pursuant to its own terms, effective March 31,  
199 2005.

200  
201       Section 19. Section 957.03, Florida Statutes, is repealed.

202  
203       Reviser's note.--The cited section, which relates to  
204 the Correctional Privatization Commission, was repealed  
205 by s. 12, ch. 2004-248, Laws of Florida, effective July  
206 1, 2005. Since the section was not repealed by a  
207 "current session" of the Legislature, it may be omitted  
208 from the 2006 Florida Statutes only through a reviser's  
209 bill duly enacted by the Legislature. See s.  
210 11.242(5)(b) and (i).

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211  
212       Section 20. Paragraph (a) of subsection (17) of section  
213 287.042, Florida Statutes, is amended to read:  
214       287.042 Powers, duties, and functions.--The department  
215 shall have the following powers, duties, and functions:  
216       (17)(a) To enter into contracts pursuant to chapter 957,  
217 ~~and to acquire the contractual rights and assume the contractual~~  
218 ~~obligations of the Correctional Privatization Commission in~~  
219 ~~contracts previously entered into pursuant to chapter 957,~~ for  
220 the designing, financing, acquiring, leasing, constructing, or  
221 operating of private correctional facilities. The department  
222 shall enter into a contract or contracts with one contractor per  
223 facility for the designing, acquiring, financing, leasing,  
224 constructing, and operating of that facility or may, if  
225 specifically authorized by the Legislature, separately contract  
226 for any such services.  
227  
228 The department may not delegate the responsibilities conferred by  
229 this subsection.  
230  
231       Reviser's note.--Amended to conform to the repeal of s.  
232 957.03, which created the Correctional Privatization  
233 Commission, effective July 1, 2005, by s. 12, ch. 2004-  
234 248, Laws of Florida; that repeal is confirmed by this  
235 act. The Department of Management Services has assumed  
236 responsibility for contracts under chapter 957 pursuant  
237 to ss. 287.042(17) and 957.04, and the deleted material  
238 in the amendment to s. 287.042(17)(a) has served its  
239 purpose.  
240

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241           Section 21. Subsection (8) of section 943.053, Florida  
242 Statutes, is amended to read:

243           943.053 Dissemination of criminal justice information;  
244 fees.--

245           (8) Notwithstanding the provisions of s. 943.0525, and any  
246 user agreements adopted pursuant thereto, and notwithstanding the  
247 confidentiality of sealed records as provided for in s. 943.059,  
248 the Department of Corrections shall provide, in a timely manner,  
249 copies of the Florida criminal history records for inmates housed  
250 in a private state correctional facility to the private entity  
251 under contract to operate the facility pursuant to the provisions  
252 of s. 944.105 ~~or s. 957.03~~. The department may assess a charge  
253 for the Florida criminal history records pursuant to the  
254 provisions of chapter 119. Sealed records received by the private  
255 entity under this section remain confidential and exempt from the  
256 provisions of s. 119.07(1).

257  
258           Reviser's note.--Amended to delete a reference to s.  
259 957.03, which was repealed by s. 12, ch. 2004-248, Laws  
260 of Florida; the repeal of s. 957.03 is confirmed by  
261 this act.

262  
263           Section 22. Paragraph (c) of subsection (1) of section  
264 943.325, Florida Statutes, is amended to read:

265           943.325 Blood or other biological specimen testing for DNA  
266 analysis.--

267           (1)

268           (c) As used in this section, the term "any person" includes  
269 both juveniles and adults committed to a county jail or committed  
270 to or under the supervision of the Department of Corrections or

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271 the Department of Juvenile Justice, including persons  
272 incarcerated in a private correctional institution operated under  
273 contract pursuant to s. 944.105 ~~or s. 957.03~~.

274  
275 Reviser's note.--Amended to delete a reference to s.  
276 957.03, which was repealed by s. 12, ch. 2004-248, Laws  
277 of Florida; the repeal of s. 957.03 is confirmed by  
278 this act.

279  
280 Section 23. Subsection (8) of section 957.04, Florida  
281 Statutes, is repealed.

282  
283 Reviser's note.--The cited subsection, which provides  
284 that the Department of Management Services is the  
285 successor agency for the Correctional Privatization  
286 Commission for contracts entered into pursuant to  
287 chapter 957 that are in effect on July 1, 2004, has  
288 served its purpose. Section 957.03, which created the  
289 Correctional Privatization Commission, was repealed  
290 effective July 1, 2005, by s. 12, ch. 2004-248, Laws of  
291 Florida; that repeal is confirmed by this act. The  
292 remaining material in s. 957.04 provides for the  
293 Department of Management Services to be responsible for  
294 duties formerly carried out by the Correctional  
295 Privatization Commission.

296  
297 Section 24. This act shall take effect on the 60th day  
298 after adjournment sine die of the session of the Legislature in  
299 which enacted.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB RCC 06-03 Florida Statutes - Reviser's Bill (Adoption Act)  
**SPONSOR(S):** Rules & Calendar Council  
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE                             | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|---------|----------------|
| Orig. Comm.: Rules & Calendar Council |        | Sayler  | Rubottom       |
| 1) _____                              | _____  | _____   | _____          |
| 2) _____                              | _____  | _____   | _____          |
| 3) _____                              | _____  | _____   | _____          |
| 4) _____                              | _____  | _____   | _____          |
| 5) _____                              | _____  | _____   | _____          |

### SUMMARY ANALYSIS

This bill is drafted by the Division of Statutory Revision of the Office of the Legislative Services to adopt the Florida Statutes 2006 and designate the portions thereof that are to constitute the official statutory law of the state. The adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law.

The 2006 adoption act will adopt all statutes material passed through the 2005 Regular Session and print them in the 2006 edition. Legislation affecting statutory law passed in the December 2005 special session and 2006 regular session, which will have occurred since the publication of the 2005 edition, is not adopted by the bill.

This bill has no fiscal impact.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

***Provide limited government***—The bill updates the codified statutes and removes uncertainty about the statutes governing the state.

#### B. EFFECT OF PROPOSED CHANGES:

The adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law. This is consistent with the decision by the Legislature, beginning in 2000, to publish in Florida Statutes on an annual basis, and to have the Division of Statutory Revision submit an adoption act annually, rather than every 2 years.

The 2006 adoption act adopts as the official statute law of the state those portions of the 2006 Florida Statutes edition that are carried forward unchanged from the edition published 1 year previously (2005). Portions carried forward from the 2005 edition are the official law of the state and, therefore, constitute the best evidence of the law.

The adopted statutes that have been enacted, amended, or repealed in a session occurring subsequent to publication of the 2005 edition will be prima facie evidence of the law in all courts of the state. Therefore, the enrolled acts from the December 2005 special session and 2006 regular session will stand as the best evidence of the law.

Any "statute of a general and permanent nature" enacted before publication of the 2005 Florida Statutes that does not appear in the 2006 edition, or is not recognized and continued in force by reference therein or in s. 11.2423 or s. 11.2424, Florida Statutes, will stand repealed, both by the logic of the system and by operation of s. 11.2422, Florida Statutes. See *National Bank v. Williams*, 28 Fla. 305, 20 So. 931 (1896).

#### C. SECTION DIRECTORY:

**Section 1** adopts the 2006 Florida Statutes. It includes the 2005 Florida Statutes and Reviser's Bill(s) enacted during the 2006 Legislative Session.

**Section 2** repeals all statutes enacted by the State of Florida at or prior to the 2005 regular legislative session that are not included in the 2006 Florida Statutes. This does not include any laws adopted during the December 2005 special legislative session or the 2006 regular legislative session.

**Section 3** details that the laws adopted during the 2005 special legislative session and 2006 regular legislative session have full effect and are not repealed by section 2 nor are the laws adopted into the 2006 Florida Statutes by section 1.

**Section 4** details that the adoption of the 2006 Florida Statutes shall not affect any right that accrued under a statute that was repealed by the 2006 Florida Statutes, nor will it affect any civil remedy where a suit is pending.

**Section 5** provides for an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

N/A

#### **2. Expenditures:**

N/A

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

N/A

#### **2. Expenditures:**

N/A

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

N/A

### **D. FISCAL COMMENTS:**

N/A

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

N/A

#### **2. Other:**

N/A

### **B. RULE-MAKING AUTHORITY:**

N/A

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

N/A

## **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**



F L O R I D A   H O U S E   O F   R E P R E S E N T A T I V E S

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30 publication. Said statutes may be cited as "Florida Statutes 2006  
31 ~~2005~~," "Florida Statutes," or "F.S. 2006 ~~2005~~."

32       Section 2. Section 11.2422, Florida Statutes, is amended to  
33 read:

34       11.2422 Statutes repealed.--Every statute of a general and  
35 permanent nature enacted by the State or by the Territory of  
36 Florida at or prior to the 2005 ~~2004~~ regular legislative session,  
37 and every part of such statute, not included in Florida Statutes  
38 2006 ~~2005~~, as adopted by s. 11.2421, as amended, or recognized  
39 and continued in force by reference therein or in ss. 11.2423 and  
40 11.2424, as amended, is repealed.

41       Section 3. Section 11.2424, Florida Statutes, is amended to  
42 read:

43       11.2424 Laws not repealed.--Laws enacted at the December 5-  
44 8, 2005 ~~13-16, 2004~~, special session and the 2006 ~~2005~~ regular  
45 session are not repealed by the adoption and enactment of the  
46 Florida Statutes 2006 ~~2005~~ by s. 11.2421, as amended, but shall  
47 have full effect as if enacted after its said adoption and  
48 enactment.

49       Section 4. Section 11.2425, Florida Statutes, is amended to  
50 read:

51       11.2425 Rights reserved under repealed statutes.--The  
52 repeal of any statute by the adoption and enactment of Florida  
53 Statutes 2006 ~~2005~~, by s. 11.2421, as amended, shall not affect  
54 any right accrued before such repeal or any civil remedy where a  
55 suit is pending.

56       Section 5. This act shall take effect on the 60th day after  
57 adjournment sine die of the session of the Legislature in which  
58 enacted.

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V



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

PCB RCC 06-04

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER \_\_\_\_\_

1 Council/Committee hearing bill:

2 Representative Kottkamp offered the following:

3  
4 **Amendment**

5 Remove line(s) 117-118 and insert:

6 (f) A person employed by any executive or judicial  
7 department of the state or any community college of the

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

PCB RCC 06-04

COUNCIL/COMMITTEE ACTION

|                       |           |
|-----------------------|-----------|
| ADOPTED               | ___ (Y/N) |
| ADOPTED AS AMENDED    | ___ (Y/N) |
| ADOPTED W/O OBJECTION | ___ (Y/N) |
| FAILED TO ADOPT       | ___ (Y/N) |
| WITHDRAWN             | ___ (Y/N) |
| OTHER                 | _____     |

---

1 Council/Committee hearing bill:-

2 Representative Kottkamp offered the following:

3  
4 **Amendment**

5 On lines 280-281, 289-290, 304, remove:

6 Lobbyist Registration Office

7 and insert in lieu thereof:

8 the person designated to review the timeliness of reports

000000

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB RCC 06-04                      House Concurrent Resolution for Joint Rule One  
**SPONSOR(S):** Rules & Calendar Council  
**TIED BILLS:**                                      **IDEN./SIM. BILLS:**

| REFERENCE                             | ACTION | ANALYST  | STAFF DIRECTOR |
|---------------------------------------|--------|----------|----------------|
| Orig. Comm.: Rules & Calendar Council |        | Rubottom | Rubottom       |
| 1) _____                              | _____  | _____    | _____          |
| 2) _____                              | _____  | _____    | _____          |
| 3) _____                              | _____  | _____    | _____          |
| 4) _____                              | _____  | _____    | _____          |
| 5) _____                              | _____  | _____    | _____          |

### SUMMARY ANALYSIS

PCB-04 constitutes a draft Concurrent Resolution that would rescind the former Joint Rules 1.1-1.9, and create a new Joint Rule One to regulate lobbyist registration and lobbying firm compensation reporting consistent with the directives of SB 6-B (2005), which amended section 11.045, effective January 1, 2006. The new Joint Rule would abolish the existing system of expenditure reporting by lobbyists. It would replace that with a system of reporting by lobbying firms, as defined in SB 6-B, of compensation received from their principals.

The Joint Rule includes a requirement, that lobbyists regularly certify that they have not violated certain ethics laws. The required statement specifically includes the expenditure ban enacted in SB 6-B (found in amended section 11.045(4)(a)). With the exception of the definition of "lobbyist" required for implementation of the registration and reporting system, no definitions or interpretations relevant to the expenditure ban are included in the proposed Joint Rule.

To enforce the new registration and compensation reporting requirements, the new Joint Rule One will continue the administrative enforcement and appeals mechanism used presently for to enforce registration and expenditure reporting. This mechanism is adjusted slightly to conform to the amended directives included in SB 6-B. Under this mechanism, fines for late filing are automatically assessed, subject to a one-time grace period. Fines are also subject to appeal for mercy or a waiver to the Speaker of the House and the President of the Senate. As with the previous system of registration and expenditure reporting, other discipline necessary to enforce the system remains under the separate independent investigation and judgment of the House and Senate.

The administration of the Joint Rule is assigned to the Office of Legislative Services, a legislative office operated jointly by the House and Senate.

The proposed Joint Rule makes slight adjustments to the provisions for registration fees, retaining the present limit of \$50.00 per registration, omitting the \$10.00 cap on multiple registrations and the mandatory exemption of certain government lobbyists.

The proposed Joint Rule waives any obligations under the previous registration and expenditure reporting rules (present Joint Rules 1.1-1.9), but the new registration requirements are applicable retroactive to January 1, 2006.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

***Provide Limited Government:*** The proposed joint rule implements and updates a statutorily directed system of legislative regulation of lobbyists by the Legislature. This preserves legislative authority over the internal workings of the House and Senate.

***Safeguard Individual Liberty:*** The proposal expressly abolishes any burdens arising out of the present requirements of Joint Rules 1.1-1.9 that were discontinued as statutory directives by the recent amendments to section 11.045, Florida Statutes.

***Promote Personal Responsibility:*** The proposal implements a statutory directive that lobbyists working together under a contract to lobby on behalf of a particular principal should be jointly and personally accountable to the Legislature for their relationship to that client. The proposal allows individual lobbyists to gain release from penalties applied to a lobbying firm based upon individual circumstances.

#### B. EFFECT OF PROPOSED CHANGES:

Subject only to the constraints of the federal and state constitutions, the House and Senate, acting jointly or separately, have inherent authority to regulate lobbying before each respective body. No statute can enlarge or reduce that inherent authority. Statutory directives provide additional guidance to the exercise of this authority, but are not subject to enforcement by any power external to the Legislature.

Lobbyist registration and reporting requirements presently found in Joint Rules 1.1-1.9 appear to satisfy the directives contained in the former provisions of section 11.045, Florida Statutes. The changes proposed by the new Joint Rule would replace the previous requirements with alternative requirements that comply with the new directives of that statute as amended. A Concurrent Resolution, such as the one proposed by the PCB, can be taken up by the full House without reference upon introduction. The purpose of the PCB is to allow the members of the Rules & Calendar Council to participate in drafting changes in rules governing the relationship of lobbyists to the House and its members.

##### ***Previous situation:***

Prior to January 1, 2006, section 11.045(2), Florida Statutes, directed the Legislature to provide by rule for the registration of lobbyists. Section 11.045(3) directed the Legislature to provide by rule for the reporting of lobbyist expenditures. The directives in subsections (2) and (3) expressly allowed joint rules as a means of satisfying the directives. Joint Rules 1.1-1.9, as last adopted by the Legislature in 2000, reprinted in the House Journal, March 7, 2005, carries out the directives of those subsections as they were effective prior to January 1, 2006.

Subsections (4) and (5) of the same section directed each house of the Legislature to provide advisory opinions upon the request of any person in doubt about the applicability and interpretation of section 11.045 in a particular context, and to maintain those opinions for public consumption. Subsection (6) directed a committee in each house to investigate complaints against lobbyists arising under sections 11.045, 112.3148 or 112.3149, Florida Statutes, and specifically authorized fines up to \$5,000 and other penalties to be imposed only by a majority vote of the house administering the complaint. House Rules 16.4, 16.5 and 16.6 implement the directives of those subsections.

Subsection 11.045(7), Florida Statutes, makes it a non-criminal infraction to knowingly fail to disclose a material fact of which disclosure is required by the registration and reporting statute and legislative

rules. That infraction can be punished by a fine up to \$5,000.00 in addition to any punishment imposed by either house of the Legislature.

Subsection 11.045(8), Florida Statutes, established a trust fund for the retention of lobbying registration fees to be used for funding the registration program.

***Present situation:***

In Special Session B, 2005, the Legislature enacted SB 6-B rewriting section 11.045 and making other changes in law. With the Governor's signature, that bill became law on January 1, 2006 (ch. 2005-359, Laws of Florida). SB 6-B eliminated the directive to require lobbyist expenditure reporting. Instead it prohibited any lobbying expenditure made by a lobbyist or principal for the purpose of gaining the goodwill of a legislator or legislative employee. Celebratory items presented on the floor of either house on the opening day of a legislative session and expenditures made in the form of contributions to political parties are specifically exempted. The bill added a new directive for legislative rules that lobbying firms, specifically defined in the legislation, regularly report the compensation they receive for representing each principal. This directive may be found in subsection 11.045(3) as amended by section 1 of SB 6-B.

In addition to the new and revised directives relating to registration and compensation reporting, SB 6-B enacted comparable statutory requirements regulating executive branch lobbying registration and compensation reporting. It also eliminated executive branch lobbying expenditure reporting. The bill also creates an audit mechanism under the Joint Legislative Auditing Committee to enforce both legislative and executive branch compensation reporting. (Although it impacts a statutory committee of the Legislature, this provision does not direct any legislative rulemaking outside that committee.)

SB 6-B also made minor changes to the registration requirement and the requirement that each house of the Legislature investigate complaints of violations of section 11.045. In addition, the bill made minor changes not relevant to the new Joint Rule proposed by the PCB.

To date, Joint Rules 1.1-1.9 have not been altered by the Legislature. These rules continue to require expenditure reporting and do not fully comply with changed directives found in the amendments to section 11.045. Significant components of those directives became effective on January 1.

***Effect of Proposed Changes:***

The PCB rescinds Joint Rules 1.1-1.9. It would adopt a new Joint Rule One bringing the Legislature's joint lobbyist registration and reporting rules into compliance with the statutory directives adopted in SB 6-B. With respect to registration, lobbyists would no longer be required to identify a "designated lobbyist" to report expenditures on behalf of each principal. Also, each principal would be required to identify its "main business" by use of the North American Industry Classification System code most accurately describing that business.

The PCB would provide more simple registration fee provisions. It eliminates a mandatory exemption for certain executive branch lobbyists. It also eliminates a requirement for reduced fees for multiple registrations by a lobbyist. The Speaker and Senate President would retain broad authority, however, to establish a fee structure with such components. The PCB retains the present \$50.00 registration fee cap.

The PCB would implement the statutory directive for compensation reporting, including every mandatory provision contained in the amended statute with drafting changes that appear necessary to correct cross-references and clarify certain insignificant ambiguities apparent in the statutory directive. The PCB retains the administrative process to assess penalties for late filing that has been utilized for expenditure reporting. Because lobbying firms, as opposed to individual lobbyists, would be the reporting entity, however, the PCB provides joint and several liability of each lobbyist for any late filing penalties assessed against a lobbying firm in which they participate. It suspends all registrations of

lobbyist participants in a lobbying firm that fails to file a required report and timely pay or appeal a late filing penalty. It also allows an individual lobbyist to gain a waiver of such responsibility in appropriate circumstances by an appeal to the Speaker and Senate President.

The PCB would specifically require reports to affirm that no lobbyist or principal has violated the new expenditure ban. No other aspect of the PCB relate to the enforcement of the new expenditure ban.

Proposed Joint Rule 1.7 provides for records retention and inspection procedures governing records of lobbying firms and principals. It specifically provides that the Speaker or Senate President may order inspection by a licensed attorney or accountant when necessary to process a complaint. It provides specific authority for those entitled to inspect those private records to seek an appropriate judicial writ to enforce the right of the House or Senate to enforce their authority to regulate lobbying. This carries forward comparable provisions found in present Joint Rule 1.9. It does not include language in s. 11.045(2)(e) which directs that the rule authorize use of legislative subpoena. The constitution, other statutes, and House Rules already provide sufficient authority to subpoena the information in an appropriate investigation without including this specific authority in a joint rule.

Proposed Joint Rule 1.10 in the PCB would abolish and waive any obligations arising under the existing joint rules governing lobbyist registration and expenditure reporting. Proposed Joint Rules 1.1, 1.2 and 1.3 would be made retroactive to January 1, 2006, with respect to lobbyist registration but Joint Rule 1.10 allows compliance with the retroactive registration requirements through demonstrating substantial compliance with the abolished registration provisions presently found in Joint Rules 1.1, 1.2 and 1.3.<sup>1</sup>

The PCB revises other language found in the present Joint Rules 1.1-1.9 for to provide greater clarity. It also incorporates language in the mandatory provisions of the amended statute that is revised as necessary for accuracy and clarity.

The PCB includes a proposed Joint Rule 1.9 intended to direct the Legislature's attention to provisions in SB 6-B, amending s. 11.045, Florida Statutes, and creating s. 11.0455, Florida Statutes, that become effective in 2007. Those provisions direct the adoption of further rules changes to provide for electronic reporting.

#### C. SECTION DIRECTORY:

The PCB's effective language rescinds the old Joint Rule One and creates a new Joint Rule One. The proposed new Joint Rule One contains 10 separate new rules. The general subject of each rule is set out in a short title in each. A brief description of the source and subject matter of each rule is provided below. For a more full explanation of any changes noted, see the discussion above. References to "s. 11.045" in the discussion below relate to the amended version of s. 11.045, Florida Statutes, enacted in ch. 2005-385, Laws of Florida, effective January 1, 2006.

**Joint Rule 1.1** mandates lobbyist registration in conformity with the directives contained in s. 11.045(2). It also provides definitions applicable to the entire Joint Rule One, consistent with the definitions provided in s. 11.045(1). The definitions include clarifications useful to the enforcement of the rules, including many definitions found in present Joint Rule 1.1.

**Joint Rule 1.2** provides the method of registration. It includes provisions that conform to directives contained in s. 11.045(2) and carries over many administrative provisions found in present Joint Rule 1.2.

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<sup>1</sup> As a result of the enactment of SB 6-B, changes to the Rules of the House are also necessary with respect to complaints filed with the House against lobbyists and others accused of particular violations. It should be anticipated that such changes to House Rules will be addressed through separate action to amend the Rules of the House. The Rules of the House can be amended by motion approved by a 2/3 vote of the House, or by recommendation of the Rules & Calendar Council approved by a majority vote of the House.

**Joint Rule 1.3** provides for registration fees. It greatly simplifies the provisions in the present rule.

**Joint Rule 1.4** mandates reporting of lobbying firm compensation. It includes mandatory provisions found in s. 11.045(3)(a)-(d).

**Joint Rule 1.5** provides for late-filing penalties and administration thereof. It includes mandatory provisions found in s. 11.045(3)(e). It carries forward many provisions contained in present Joint Rule 1.5 relating to late filing of expenditure reports.

**Joint Rule 1.6** provides that registration and compensation reporting records of the Legislature are open records. This is consistent with present treatment of registration and expenditure reporting records under present Joint Rule 1.5. It represents an exercise of the Legislature's specific authority, respecting legislative records, to implement Florida's constitutional open records requirement, Art. I, Sec. 24, Florida Constitution.

**Joint Rule 1.7** provides for records retention and inspection procedures governing records of lobbying firms and principals. It also includes inspection provisions. This carries forward comparable provisions found in present Joint Rule 1.9.

**Joint Rule 1.8** provides for an informal opinion to be provided by the General Counsel of the Office of Legislative Services with respect to the interpretation and applicability of provisions of Joint Rule One to a specific situation. These opinions are subject to revision by an appropriate committee of either house. The rule also provides that a person may also seek an advisory opinion directly from either house. These provisions carry forward language found in present Joint Rule 1.7.

**Joint Rule 1.9** provides a mechanism for the House and Senate to address the requirements of s. 11.0455, created in SB 6-B, which directs the implementation of electronic reporting effective in April, 2007.

**Joint Rule 1.10** provides for the transition from the old Joint Rules 1.1-1.9 to the new rules by abolishing the obligations under the old rule and making new registration provisions retroactive to January 1, 2006, the effective date of most provisions of SB 6-B.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

Revenues go to the Lobbyist Registration Trust Fund and do not affect general revenue.

#### **2. Expenditures:**

Registration and reporting administration expenditures are funded from the Lobbyist Registration Trust Fund and do not affect general appropriations.

The proposed rules eliminate mandatory registration fee exemptions presently granted to certain state agencies and departments. The proposed rules, however, allow the Speaker and Senate President to continue the exemption. It is estimated that the present cost of documenting a lobbyist's qualification for the exemption and the cost of administering the exemption exceed the \$50.00 value of each exemption. It should be anticipated that the exemption is likely to be eliminated.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The economic impact on private sector compliance with the proposed rules appears insignificant. The publication of lobbying compensation paid by each principal could introduce a new degree of price competition to the business of legislative lobbying.

D. FISCAL COMMENTS:

N/A

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

Opponents question the constitutionality of mandatory compensation reporting. These questions raise issues under Florida's Privacy Amendment, Art. I, Sec. 23, Florida Constitution, as well as due process provisions of the federal and state constitutions.

It is inarguable, however, that the House and Senate have broad inherent authority to regulate lobbying before the House and Senate. The previous regime of expenditure reporting survived for some time without serious challenge. Compensation reporting may not be more problematic under constitutional scrutiny than expenditure reporting has been.

It should also be considered that financial disclosure rules, requiring disclosure of individual income and debts as well as those of near relatives, are being used widely in public ethics schemes subject to the same constitutional limitations which opponents might assert in objection to compensation reports.

Finally, it must be remembered that PCB RCC 06-04 proposes a Joint Rule of the House and Senate. Proper regard for the separation of powers, see Art. II, Sec. 3, Florida Constitution, makes it difficult to discover the basis for judicial jurisdiction over a complaint against the House and Senate or its officers questioning a legislative rule regulating lobbying within the confines of the legislative process. A judicial order in such litigation would be analogous to a legislative enactment purporting to limit the Supreme Court's regulation of the practice of law. A lack of judicial jurisdiction over the subject, however, should increase the gravity of the responsibility of the House and Senate to respect the constitutional rights of Florida residents in the exercise of legislative authority.

B. RULE-MAKING AUTHORITY:

The PCB does not address any rule-making authority outside the legislative branch of government.

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

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House Concurrent Resolution

A concurrent resolution adopting Joint Rule One relating to lobbyist registration and compensation reporting.

WHEREAS, existing Joint Rule One has regulated lobbyist registration and expenditure reporting, and

WHEREAS, the enactment of chapter 2005-359, Laws of Florida, directed the adoption of rules imposing and regulating lobbyist registration and compensation reporting, and

WHEREAS, each house of the Legislature has inherent, independent authority, acting separately or jointly, to regulate legislative lobbying in each house respectively, and

WHEREAS, there is uncertainty about the present effect of former Joint Rule One, and

WHEREAS, the House of Representatives and Senate desire to resolve uncertainty and jointly implement the statutory directive for lobbyist registration and compensation reporting, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida, the Senate Concurring:

That former Joint Rule One is rescinded and new Joint Rule One is adopted to read:

JOINT RULE ONE

LOBBYIST REGISTRATION AND COMPENSATION REPORTING

1.1 Those Required to Register; Exemptions; Committee Appearance Records

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(1) All lobbyists before the Florida Legislature must register with the Lobbyist Registration Office in the Division of Legislative Information Services of the Office of Legislative Services. Registration is required for each principal represented.

(2) As used in Joint Rule One, unless the context otherwise requires:

(a) "Compensation" means a payment, distribution, loan, advance, reimbursement, deposit, salary, fee, retainer, or anything of value provided or owed to a lobbying firm, directly or indirectly, by a principal for any lobbying activity.

(b) "Division" means the Division of Legislative Information Services within the Office of Legislative Services.

(c) "Legislative action" means introduction, sponsorship, testimony, debate, voting, or any other official action on any measure, resolution, amendment, nomination, appointment, or report of, or any matter that may be the subject of action by, either house of the Legislature or any committee thereof.

(d) "Lobby" or "lobbying" means influencing or attempting to influence legislative action or nonaction through oral or written communication or an attempt to obtain the goodwill of a member or employee of the Legislature.

(e) "Lobbying firm" means any business entity, including an individual contract lobbyist, that receives or becomes entitled to receive any compensation for the purpose of lobbying, where any partner, owner, officer, or employee of the business entity is a lobbyist. "Lobbying firm" does not include an entity that has employees who are lobbyists if the entity does not derive compensation from principals for lobbying, or such compensation



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60 is received exclusively from a subsidiary corporation of the  
61 employer.

62 (f) "Lobbyist" means a person who is employed and receives  
63 payment, or who contracts for economic consideration, for the  
64 purpose of lobbying, or a person who is principally employed for  
65 governmental affairs by another person or governmental entity to  
66 lobby on behalf of that other person or governmental entity. An  
67 employee of the principal is not a "lobbyist" unless the employee  
68 is principally employed for governmental affairs. "Principally  
69 employed for governmental affairs" means that one of the  
70 principal or most significant responsibilities of the employee to  
71 the employer is overseeing the employer's various relationships  
72 with government or representing the employer in its contacts with  
73 government. Any person employed by the Governor, the Executive  
74 Office of the Governor, or any executive or judicial department  
75 of the state or any community college of the state who seeks to  
76 encourage the passage, defeat, or modification of any legislation  
77 by personal appearance or attendance before the House of  
78 Representatives or the Senate, or any member or committee  
79 thereof, is a lobbyist.

80 (g) "Payment" or "salary" means wages or any other  
81 consideration provided in exchange for services, but does not  
82 include reimbursement for expenses.

83 (h) "Principal" means the person, firm, corporation, or  
84 other entity that has employed or retained a lobbyist. When an  
85 association has employed or retained a lobbyist, the association  
86 is the principal; the individual members of the association are  
87 not principals merely because of their membership in the  
88 association.

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89           (3) For purposes of this rule, the terms "lobby" and  
90 "lobbying" do not include any of the following:  
91           (a) Response to an inquiry for information made by any  
92 member, committee, or staff of the Legislature.  
93           (b) An appearance in response to a legislative subpoena.  
94           (c) Advice or services that arise out of a contractual  
95 obligation with the Legislature, a member, a committee, any  
96 staff, or any legislative entity to render the advice or services  
97 where such obligation is fulfilled through the use of public  
98 funds.  
99           (d) Representation of a client before the House of  
100 Representatives or the Senate, or any member or committee  
101 thereof, when the client is subject to disciplinary action by the  
102 House of Representatives or the Senate, or any member or  
103 committee thereof.  
104           (4) For purposes of registration and reporting, the term  
105 "lobbyist" does not include any of the following:  
106           (a) A member of the Legislature.  
107           (b) A person who is employed by the Legislature.  
108           (c) A judge who is acting in that judge's official  
109 capacity.  
110           (d) A person who is a state officer holding elective office  
111 or an officer of a political subdivision of the state holding  
112 elective office and who is acting in that officer's official  
113 capacity.  
114           (e) A person who appears as a witness or for the purpose of  
115 providing information at the written request of the chair of a  
116 committee, subcommittee, or legislative delegation.  
117           (f) A person employed by any executive, judicial, or quasi-  
118 judicial department of the state or community college of the

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119 | state who makes a personal appearance or attendance before the  
120 | House of Representatives or the Senate, or any member or  
121 | committee thereof, while that person is on approved leave or  
122 | outside normal working hours, and who does not otherwise meet the  
123 | definition of lobbyist.

124 |       (5) When a person, whether or not the person is registered  
125 | as a lobbyist, appears before a committee of the Legislature,  
126 | that person must submit a Committee Appearance Record as required  
127 | by the respective house.

128 |       1.2 Method of Registration

129 |       (1) Each person who is required to register must register  
130 | on forms furnished by the Lobbyist Registration Office, on which  
131 | that person must state, under oath, that person's full legal  
132 | name, business address and telephone number, the name and  
133 | business address of each principal that person represents, and  
134 | the extent of any direct business association or partnership that  
135 | person has with any member of the Legislature. In addition, if  
136 | the lobbyist is a partner, owner, officer, or employee of a  
137 | lobbying firm, the lobbyist must state the name, address, Federal  
138 | Employer's Identification Number (FEIN), contact name, and  
139 | telephone number of each lobbying firm to which the lobbyist  
140 | belongs. The Lobbyist Registration Office or its designee is  
141 | authorized to acknowledge the oath of any person who registers in  
142 | person. Any changes to the information provided in the  
143 | registration form must be reported to the Lobbyist Registration  
144 | Office in writing within 15 days on forms furnished by the  
145 | Lobbyist Registration Office.

146 |       (2) Any person required to register must do so with respect  
147 | to each principal prior to commencement of lobbying on behalf of  
148 | that principal. At the time of registration, the registrant shall

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149 provide a statement on a form provided by the Lobbyist  
150 Registration Office, signed by the principal or principal's  
151 representative that the registrant is authorized to represent the  
152 principal. On the authorization statement the principal or  
153 principal's representative shall also identify and designate the  
154 principal's main business pursuant to a classification system  
155 approved by the Office of Legislative Services that shall be the  
156 North American Industry Classification System (NAICS) six-digit  
157 numerical code that most accurately describes the principal's  
158 main business.

159 (3) Any person required to register must renew the  
160 registration annually for each calendar year.

161 (4) A lobbyist shall promptly send a notice to the Lobbyist  
162 Registration Office on forms furnished by the Lobbyist  
163 Registration Office, canceling the registration for a principal  
164 upon termination of the lobbyist's representation of that  
165 principal. A notice of cancellation takes effect the day it is  
166 received by the Lobbyist Registration Office. Notwithstanding  
167 this requirement, the Lobbyist Registration Office may remove the  
168 name of a lobbyist from the list of registered lobbyists if the  
169 principal notifies the Lobbyist Registration Office that the  
170 lobbyist is no longer authorized to represent that principal.

171 (5) The Lobbyist Registration Office shall publish on the  
172 first Monday of each regular session and weekly thereafter  
173 through the end of that session a compilation of the names of  
174 persons who have registered and the information contained in  
175 their registrations.

176 (6) The Lobbyist Registration Office shall retain all  
177 original documents submitted under this rule.

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(7) A person who is required to register under this rule, or who chooses to register, shall be considered a lobbyist of the Legislature for the purposes of sections 11.045, 112.3148 and 112.3149, Florida Statutes.

### 1.3 Registration Costs

(1) To cover the costs incurred in administering the legislative Lobbyist Registration Office, each person who registers must pay an annual registration fee to the Lobbyist Registration Office. The annual period runs from January 1 to December 31. These fees must be paid at the time of registration.

(2) An annual fee up to \$50 per each house for a person to register shall be established annually by the President of the Senate and the Speaker of the House of Representatives. The fees set shall be adequate to ensure operation of the lobbyist registration and reporting operations of the Lobbyist Registration Office. The fees collected by the Lobbyist Registration Office under this Joint Rule One shall be deposited in the State Treasury and credited to the Legislative Lobbyist Registration Trust Fund specifically to cover the costs incurred in administering the Lobbyist Registration Office.

### 1.4 Reporting of Lobbying Firm Compensation

(1)(a) Each lobbying firm shall file a compensation report with the division for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:

1. Full name, business address, and telephone number of the lobbying firm;
2. Registration name of each of the firm's lobbyists; and
3. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of

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208 the following categories: \$0; \$1 to \$49,999; \$50,000 to \$99,999;  
209 \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to \$999,999;  
210 \$1 million or more.

211 (b) For each principal represented by one or more of the  
212 firm's lobbyists, the lobbying firm's compensation report shall  
213 also include the:

214 1. Full name, business address, and telephone number of the  
215 principal; and

216 2. Total compensation provided or owed to the lobbying firm  
217 for the reporting period, reported in one of the following  
218 categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to  
219 \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or  
220 more. If the category "\$50,000 or more" is selected, the specific  
221 dollar amount of compensation must be reported, rounded up or  
222 down to the nearest \$1,000.

223 (c) If the lobbying firm subcontracts work from another  
224 lobbying firm and not from the original principal:

225 1. The lobbying firm providing the work to be subcontracted  
226 shall be treated as the reporting lobbying firm's principal for  
227 reporting purposes under this paragraph; and

228 2. The reporting lobbying firm shall, for each lobbying  
229 firm identified as the reporting lobbying firm's principal under  
230 paragraph (b), identify the name and address of the principal  
231 originating the lobbying work.

232 (d) The senior partner, officer, or owner of the lobbying  
233 firm shall certify to the veracity and completeness of the  
234 information submitted pursuant to this Rule 1.4, and certify that  
235 no compensation has been omitted from this report by deeming such  
236 compensation as "consulting services," "media services,"  
237 "professional services," or anything other than compensation, and

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238 | certify that no officer or employee of the firm has made an  
239 | expenditure in violation of section 11.045, Florida Statutes, as  
240 | amended by chapter 2005-359, Laws of Florida.

241 |       (2) For each principal represented by more than one  
242 | lobbying firm, the division shall aggregate the reporting-period  
243 | and calendar-year compensation reported as provided or owed by  
244 | the principal. Compensation reported within a category shall be  
245 | aggregated as the arithmetic mean of the category.

246 |       (3) The reporting statements shall be filed no later than  
247 | 45 days after the end of each reporting period. The four  
248 | reporting periods are from January 1 through March 31, April 1  
249 | through June 30, July 1 through September 30, and October 1  
250 | through December 31, respectively. The statements shall be  
251 | rendered in the identical form provided by the respective houses  
252 | and shall be open to public inspection. Reporting statements may  
253 | be filed by electronic means, when feasible.

254 |       (4) Reports shall be filed no later than 5 p.m. of the  
255 | report due date. However, any report that is postmarked by the  
256 | United States Postal Service no later than midnight of the due  
257 | date shall be deemed to have been filed in a timely manner, and a  
258 | certificate of mailing obtained from and dated by the United  
259 | States Postal Service at the time of the mailing, or a receipt  
260 | from an established courier company that bears a date on or  
261 | before the due date, shall be proof of mailing in a timely  
262 | manner.

263 |       1.5 Failure to File Timely Compensation Report; Notice and  
264 | Assessment of Fines; Appeals

265 |       (1) Upon determining that the report is late, the person  
266 | designated to review the timeliness of reports shall immediately  
267 | notify the lobbying firm as to the failure to timely file the

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268 report and that a fine is being assessed for each late day. The  
269 fine shall be \$50 per day per report for each late day, not to  
270 exceed \$5,000 per report.

271 (2) Upon receipt of the report, the person designated to  
272 review the timeliness of reports shall determine the amount of  
273 the fine due based upon the earliest of the following:

274 (a) When a report is actually received by the division.

275 (b) When the report is postmarked.

276 (c) When the certificate of mailing is dated.

277 (d) When the receipt from an established courier company is  
278 dated.

279 (3) Such fine shall be paid within 30 days after the notice  
280 of payment due is transmitted by the Lobbyist Registration  
281 Office, unless appeal is made to the division. The moneys shall  
282 be deposited into the Legislative Lobbyist Registration Trust  
283 Fund.

284 (4) A fine shall not be assessed against a lobbying firm  
285 the first time the report for which the lobbying firm is  
286 responsible is not timely filed. However, to receive the one-time  
287 fine waiver, the report for which the lobbying firm is  
288 responsible must be filed within 30 days after notice that the  
289 report has not been timely filed is transmitted by the Lobbyist  
290 Registration Office. A fine shall be assessed for any subsequent  
291 late-filed reports.

292 (5) Any lobbying firm may appeal or dispute a fine, based  
293 upon unusual circumstances surrounding the failure to file on the  
294 designated due date, and may request and shall be entitled to a  
295 hearing before the General Counsel of the Office of Legislative  
296 Services, who shall recommend to the President of the Senate and  
297 the Speaker of the House of Representatives, or their respective



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298 | designees, that the fine be waived in whole or in part for good  
299 | cause shown. The President of the Senate and the Speaker of the  
300 | House of Representatives, or their respective designees, may by  
301 | joint agreement concur in the recommendation and waive the fine  
302 | in whole or in part. Any such request shall be made within 30  
303 | days after the notice of payment due is transmitted by the  
304 | Lobbyist Registration Office. In such case, the lobbying firm  
305 | shall, within the 30-day period, notify the person designated to  
306 | review the timeliness of reports in writing of his or her  
307 | intention to request a hearing.

308 |         (6) A lobbying firm may request that the filing of a report  
309 | be waived upon good cause shown, based on unusual circumstances.  
310 | The request must be filed with the General Counsel of the Office  
311 | of Legislative Services, who shall make a recommendation  
312 | concerning the waiver request to the President of the Senate and  
313 | the Speaker of the House of Representatives. The President of the  
314 | Senate and the Speaker of the House of Representatives may, by  
315 | joint agreement, grant or deny the request.

316 |         (7)(a) All lobbyist registrations for lobbyists who are  
317 | partners, owners, officers, or employees of a lobbying firm that  
318 | fails to timely pay a fine are automatically suspended until the  
319 | fine is paid or waived, and the division shall promptly notify  
320 | all affected principals and the President of the Senate and the  
321 | Speaker of the House of Representatives of any suspension or  
322 | reinstatement. All lobbyists who are partners, owners, officers,  
323 | or employees of a lobbying firm are jointly and severally liable  
324 | for any outstanding fine owed by a lobbying firm.

325 |         (b) No such lobbyist may be reinstated in any capacity  
326 | representing any principal until the fine is paid or until the  
327 | fine is waived as to that lobbyist. A suspended lobbyist may

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328 request a waiver upon good cause shown, based on unusual  
329 circumstances. The request must be filed with the General Counsel  
330 of the Office of Legislative Services who shall, as soon as  
331 practicable, make a recommendation concerning the waiver request  
332 to the President of the Senate and the Speaker of the House of  
333 Representatives. The President of the Senate and the Speaker of  
334 the House of Representatives may, by joint agreement, grant or  
335 deny the request.

336 (8) The person designated to review the timeliness of  
337 reports shall notify the director of the division of the failure  
338 of a lobbying firm to file a report after notice or of the  
339 failure of a lobbying firm to pay the fine imposed.

340 1.6 Open Records

341 All of the lobbyist registration and compensation reports  
342 received by the Lobbyist Registration Office shall be available  
343 for public inspection and for duplication at reasonable cost.

344 1.7 Records Retention and Inspection and Complaint  
345 Procedure

346 (1) Each lobbying firm and each principal shall preserve  
347 for a period of 4 years all accounts, bills, receipts, computer  
348 records, books, papers, and other documents and records necessary  
349 to substantiate compensation reports.

350 (2) Upon receipt of a complaint based upon the personal  
351 knowledge of the complainant made pursuant to the Senate Rules or  
352 Rules of the House of Representatives, any such documents and  
353 records may be inspected when authorized by the President of the  
354 Senate or the Speaker of the House of Representatives, as  
355 applicable. The person authorized to perform the inspection shall  
356 be designated in writing and shall be a member of The Florida Bar  
357 or a certified public accountant licensed in Florida. Any

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information obtained by such an inspection may only be used for purposes authorized by law, this Joint Rule One, Senate Rules, or Rules of the House of Representatives, which purposes may include the imposition of sanctions against a person subject to this rule or Senate Rules or the Rules of the House of Representatives. Any employee who uses that information for an unauthorized purpose is subject to discipline. Any member who uses that information for an unauthorized purpose is subject to discipline under the applicable rules of each house.

(3) The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

#### 1.8 Questions Regarding Interpretation of this Joint Rule One

(1) A person may request in writing an informal opinion from the General Counsel of the Office of Legislative Services as to the application of this Joint Rule One to a specific situation. The general counsel shall issue the opinion within 10 days after receiving the request. The informal opinion may be relied upon by the person who requested the informal opinion. A copy of each informal opinion that is issued shall be provided to the presiding officer of each house. A committee of either house designated pursuant to section 11.045(5), Florida Statutes, may revise any informal opinion rendered by the general counsel through an advisory opinion to the person who requested the informal opinion. The advisory opinion shall supersede the informal opinion as of the date the advisory opinion is issued.

(2) Persons in doubt about the applicability or interpretation of this Joint Rule One may submit in writing the facts for an advisory opinion to the committee of either house designated pursuant to section 11.045(5), Florida Statutes, and

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388 may appear in person before the committee in accordance with  
389 section 11.045(5), Florida Statutes.

390 1.9 Application of Section 11.0455, Florida Statutes;  
391 Recommendations

392 Prior to the 2006 Organizational Session, the House of  
393 Representatives and the Senate should consider what changes  
394 should be made to this Joint Rule One to implement section  
395 11.0455, Florida Statutes.

396 1.10 Effect of Former Joint Rule One

397 Every obligation under former Joint Rule One, rescinded upon  
398 adoption of this Joint Rule One, is hereby waived and abolished.  
399 The obligations under Joint Rules 1.1, 1.2, and 1.3 are to be  
400 enforced retroactively to January 1, 2006, provided that  
401 substantial compliance with the provisions of former Joint Rules  
402 1.1, 1.2, and 1.3 on or before the effective date of this Joint  
403 Rule One shall be deemed to be compliance with any retroactive  
404 requirements of this Joint Rule One.



1 **PROPOSED HOUSE RULE AMENDMENTS (16.4, 16.5 and 16.6)**

2  
3 **16.4—Lobbyists; Requests for Advisory Opinions**

4 (a) OBLIGATIONS OF A LOBBYIST

5 (1) A lobbyist shall supply facts, information, and opinions of principals to  
6 legislators from the point of view that the lobbyist openly declares. A lobbyist shall not  
7 offer or propose anything that may reasonably be construed to improperly influence the  
8 official act, decision, or vote of a legislator, nor shall a lobbyist attempt to improperly  
9 influence the selection of officers or employees of the House. A lobbyist, by personal  
10 example and admonition to colleagues, shall maintain the honor of the legislative process  
11 by the integrity of the lobbyist's relationship with legislators as well as with the principals  
12 whom the lobbyist represents.

13 (2) A lobbyist shall not knowingly and willfully falsify, conceal, or cover up, by  
14 any trick, scheme, or device, a material fact or make any false, fictitious, or fraudulent  
15 statement or representation, or make or use any writing or document knowing the same to  
16 contain any false, fictitious, or fraudulent statements or entry.

17 (3) During a regular session, or any extended or special session, a lobbyist may  
18 not contribute to a member's campaign or to any organization that is registered or is  
19 required to be registered with the Rules & Calendar Council under Rule 15.3.

20 (4) A lobbyist may not make any expenditure prohibited by s. 11.045(4)(a),  
21 Florida Statutes, as amended by ch. 2005-359 Laws of Florida.

22 (5) No registered lobbyist shall be permitted upon the floor of the House while it  
23 is in session.

24 (b) ADVISORY OPINIONS; COMPILATION THEREOF. A lobbyist when in  
25 doubt about the applicability and interpretation of subsection (a) in a particular context,  
26 ~~shall submit in writing the facts an advisory opinion to the Speaker, who or any person~~  
27 when in doubt about the applicability and interpretation of s. 11.045, s. 112.3148, or s.  
28 112.3149, Florida Statutes, as such statute(s) may apply to that person, may request an  
29 advisory opinion under this subsection (b). Such request shall be in writing, addressed to  
30 the Speaker and shall contain the relevant facts. The Speaker shall either refer the issue to  
31 the House general counsel for review and drafting of an advisory opinion of the Speaker

or refer the issue to a committee designated by the Speaker to have responsibility for the ethical conduct of lobbyists and the person requesting the advisory opinion may appear in person before such committee. The ~~Speaker House general counsel~~ or this committee shall render advisory opinions to ~~any lobbyist~~ the person who seeks advice as to whether the facts ~~in a particular case~~ as described in the request and any supplemental communication would constitute a violation of such rule or statute by ~~a lobbyist~~ that person. Such opinion, until amended or revoked, shall be binding upon the House in any proceeding upon a subsequent complaint concerning the person lobbyist who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for advisory opinion. Upon request of the person who requested the advisory opinion ~~the lobbyist~~ or any member, the committee designated by the Speaker to have responsibility for the ethical conduct of lobbyists may revise any advisory opinion issued by the ~~Speaker House general counsel~~ or may revise any advisory opinion issued by the general counsel of the Office of Legislative Services under Joint Rule ~~1.81.7~~. The House general counsel or committee shall make sufficient deletions to prevent disclosing the identity of persons in the decisions or opinions. All advisory opinions of the ~~Speaker House general counsel~~ or this committee shall be numbered, dated, and published in an annual publication of the House. The Clerk shall keep a compilation of all advisory opinions ~~of the House general counsel or committee designated by the Speaker to have responsibility for the ethical conduct of lobbyists.~~

#### 16.5--Complaints of Violations Relating to Lobbyists and Other Persons; Procedure

(a) FILING OF COMPLAINTS. The Chair of the Rules & Calendar Council shall receive and initially review ~~allegations of~~ any complaint alleging violations of the Rules of the House, Joint Rule ~~One~~ 1, or violations of a law, rule, or other standard of conduct by a lobbyist or lobbying firm. In addition, the Chair shall receive and initially review any complaint alleging violations of s. 11.045, s. 112.3148, or s. 112.3149, Florida Statutes, by any person other than a member.

(1) ~~Review of Complaints. The Chair of the Rules & Calendar Council shall review each complaint submitted to the subcommittee relating to the conduct of a lobbyist.~~

63 (2) Complaints

64 a. A complaint shall be in writing and under oath, setting forth in simple, concise  
65 statements the following:

- 66 1. The name and legal address of the party filing the complaint (complainant);  
67 2. The name and address of the person or lobbying firm~~lobbyist~~ (respondent)  
68 alleged to be in violation of the Rules of the House, Joint Rule One~~1~~, or an applicable  
69 law, rule, or other standard of conduct;  
70 3. The nature of the alleged violation based upon the personal knowledge of the  
71 complainant, including, if possible, the specific section of the Rules of the House, Joint  
72 Rule One~~1~~, or law, rule, or other standard of conduct alleged to have been violated; and  
73 4. The facts alleged to give rise to the violation.

74 b. All documents in the possession of the complainant that are relevant to, and in  
75 support of, the allegations shall be attached to the complaint.

76 c. Each complaint shall be filed with the Speaker or the Rules & Calendar  
77 Council. Any complaint filed with the Speaker shall be forwarded to the Rules &  
78 Calendar Council at the reasonable convenience of the Speaker.

79 (23) Processing Complaint and Preliminary Findings

80 a. Upon the receipt ~~filing~~ of a complaint, the Rules & Calendar Council staff  
81 shall note the date of receipt, and the Chair shall, within 5 working days, notify the  
82 person~~lobbyist~~ against whom the complaint has been filed and give such person a copy of  
83 the complaint. For purposes of this rule and rule 16.6, a complaint against a lobbying  
84 firm shall be treated as a complaint against each lobbyist who is a partner, owner, officer,  
85 or employee of the lobbying firm. For purposes of this rule and rule 16.6, the term  
86 “person” includes any principal regardless of the organizational form of the principal.  
87 Within 20 days, the Chair shall take the necessary actions as provided in subparagraphs  
88 b.-g. If, however, the complaint alleges a violation by an employee, a copy of the  
89 complaint shall be forwarded to the Speaker for disposition consistent with Rule 2.6 as to  
90 that employee.

91 b. The Chair shall examine each complaint for jurisdiction and for compliance  
92 with paragraph (a)(21).



c. If the Chair determines that a complaint does not comply with such rule, the complaint shall be returned to the complainant with a general statement that the complaint is not in compliance with such rule and with a copy of the rule. A complainant may resubmit a complaint, provided such complaint is resubmitted prior to the expiration of the time limitation set forth in subsection (m).

d. If the Chair determines that the verified complaint does not allege facts sufficient to constitute a violation of any of the provisions of the Rules of the House, Joint Rule One, or a law, rule, or other standard of conduct, the Chair shall dismiss the complaint and notify the complainant and the respondent of such action.

e. If the Chair determines that the complaint is outside the jurisdiction of the House, the Chair shall dismiss the complaint and notify the complainant and the respondent of such action.

f. If the Chair determines that a violation is inadvertent, technical, or otherwise of a *de minimis* nature, the Chair may attempt to correct or prevent such a violation by informal means.

g. If the Chair determines that such a complaint does allege facts sufficient to constitute a violation of any of the provisions of the Rules of the House, Joint Rule One<sup>1</sup>, or a law, rule, or other standard of conduct, and that the complaint is not *de minimis* in nature, the Chair shall transmit a copy of the complaint to the Speaker and, in writing, request the appointment of a Probable Cause Panel or Special Master regarding the complaint. A copy of the letter shall be provided to the complainant and the respondent.

(34) Withdrawal of Complaints. A complaint may be withdrawn at any time.

(b) PROBABLE CAUSE PANEL OR SPECIAL MASTER

(1) Creation. Whenever the Speaker receives a copy of a complaint and a request for appointment made pursuant to subsection (a), and whenever the Speaker receives audit information indicating a possible violation of s. 11.045, Florida Statutes, other than a late-filed report, by a lobbying firm (which shall be treated as the respondent for purposes of this rule), the Speaker shall, within 20 days, either appoint a Probable Cause Panel (the panel) consisting of an odd number of members or appoint a Special Master. If the Speaker appoints a Probable Cause Panel, the Speaker shall also appoint one member of the panel as its Chair. The Speaker may appoint up to two additional persons who are

not members of the House to serve as nonvoting, public members of a Probable Cause Panel.

(2) Powers and Duties. The members of the panel or the Special Master shall have the following powers and duties:

a. Investigate complaints and possible violations indicated by audits (which shall be treated as complaints) and make appropriate findings of fact promptly regarding allegations of improper conduct sufficient to establish probable cause of violation of the Rules of the House, Joint Rule One<sup>1</sup>, or a law, rule, or other standard of conduct;

b. Based upon the investigation by the Special Master or the panel, make and report findings of probable cause to the Speaker and to the House as it relates to the complaint that occasioned the appointment of the Probable Cause Panel or the Special Master;

c. Recommend to the Rules & Calendar Council such additional rules or regulations as the Probable Cause Panel or the Special Master shall determine are necessary or desirable to ensure proper standards of conduct by lobbyists or others regulated by s. 11.045, s. 112.3148, or s. 112.3149, Florida Statutes; and

d. Adopt rules of procedure as appropriate to its needs.

(3) Quorum. A quorum of a Probable Cause Panel, when appointed, shall consist of a majority of the members of the panel. All action by a Probable Cause Panel shall require the concurrence of a majority of the full panel.

(4) Term. A Probable Cause Panel or Special Master, as appropriate, shall serve until the complaint that occasioned the appointment of the panel or the Special Master has been dismissed or until a finding of probable cause has been transmitted to the Speaker.

#### (c) PRELIMINARY INVESTIGATION AND PROBABLE CAUSE FINDING

##### (1) Preliminary Investigation

a. The Probable Cause Panel or the Special Master shall provide the respondent an opportunity to present to the panel, Special Master, or staff of the panel, orally or in writing, a statement addressing the allegations.

b. The panel, Special Master, or staff of the panel may interview witnesses and examine documents and other evidentiary matters.

c. The panel or Special Master may order the testimony of witnesses to be taken under oath, in which event the oath may be administered by the Chair or any other member of the panel, by the Special Master, or by any person authorized by law to administer oaths.

d. The panel or Special Master may require, by subpoena issued pursuant to these rules or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry.

(2) Probable Cause Finding

a. The panel, by a recorded vote of a majority of the full panel, or the Special Master, as appropriate, shall determine whether there is probable cause to conclude that a violation within the jurisdiction of the panel or the Special Master has occurred.

b. If the panel or Special Master, as appropriate, finds that probable cause does not exist, the panel or Special Master shall dismiss the complaint and notify the complainant and the respondent of its determination.

c. If the panel or Special Master, as appropriate, determines that probable cause exists to believe that a violation occurred but that the violation, if proven, is of a *de minimis* nature or is not sufficiently serious to justify the imposition of a penalty pursuant to Rule 16.6, the panel or Special Master may recommend an appropriate, lesser penalty or may resolve the complaint informally. If the respondent agrees, a summary of the panel's or Special Master's conclusions, as appropriate, shall be published in the House *Journal* and the penalty agreed upon shall be imposed. If the panel or Special Master is unable to satisfactorily settle the complaint, the complaint shall be subject to a full evidentiary hearing before the a Select Committee appointed on Lobbyist Conduct pursuant to subsection (d).

d. If the panel or Special Master determines that probable cause exists to believe that a violation occurred and that, if proven, would be sufficiently serious to justify imposition of a penalty pursuant to Rule 16.6, the panel or Special Master shall cause to be transmitted to the respondent a Statement of Alleged Violation. The statement shall be divided into counts, and each count shall be related to a separate violation and shall contain a plain and concise statement of the alleged facts of such violation, including a

reference to the provision of the Rules of the House, Joint Rule One<sup>1</sup>, or law, rule, or other standard of conduct alleged to have been violated. A copy of the statement shall also be transmitted to the Speaker.

(d) HEARING

(1) Select Committee ~~on Lobbyist Conduct~~. Upon receipt by the Speaker of a Statement of Alleged Violation, the Speaker shall appoint, within 20 days, a Select Committee ~~on Lobbyist Conduct~~ (the select committee) to hold hearings regarding the statement and make a recommendation for disciplinary action to the full House.

(2) Hearing. A hearing regarding a violation charged in a Statement of Alleged Violation shall be held promptly to receive evidence upon which to base findings of fact and recommendations, if any, to the House respecting such violation. The hearing before the select committee shall be subject to Rule 7.14.

a. Chair. The Chair of the select committee or other member presiding at a hearing shall rule upon any question of admissibility of testimony or evidence presented to the select committee. Rulings shall be final unless reversed or modified by a majority vote of the members of the select committee. If the select committee appoints a referee pursuant to subsection (i), the referee shall make all evidentiary rulings.

b. Referee. The select committee shall serve as referee for all proceedings under these rules, unless the select committee retains an independent referee pursuant to subsection (i).

c. Prosecutor. The select committee's staff shall serve as prosecutor in all proceedings conducted under these rules, unless the select committee retains independent counsel pursuant to subsection (j).

d. Respondent's Rights. The respondent shall have the right to be represented by legal counsel, to call witnesses, to introduce exhibits, and to cross-examine opposing witnesses. The respondent or respondent's counsel shall be permitted to take the deposition of the complainant in accordance with sub-subparagraph (3)a.3.

e. Complainant's Rights. The complainant is not a party to any part of the complaint process or these proceedings. The complainant has no standing to challenge these rules or procedures and has no right to appeal. The complainant may submit a list of

witnesses or questions for the select committee's consideration to assist in its preparation for the hearing.

(3) Procedures

a. Procedure and Evidence

1. Procedure. The select committee may adopt rules of procedure as appropriate to its needs.

2. Evidence. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. However, hearsay evidence may not be used unless same would be admissible under the *Florida Rules of Evidence* and it shall not be sufficient in itself to support a factual finding unless it would be admissible over objection in civil actions.

3. Discovery. Discovery may be permitted upon motion, which shall state the reason therefor. Discovery shall be in accordance with the *Florida Rules of Civil Procedure*, but may be limited in time, scope, and method by the Chair or the referee.

4. Testimony. The select committee shall order the testimony of witnesses to be taken under oath, in which event the oath may be administered by the Chair or a member of the select committee, by any referee appointed pursuant to subsection (i), or by any person authorized by law to administer oaths.

5. Subpoenas. The select committee may require, by subpoena issued pursuant to these rules or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry.

b. Order of Hearing. The order of the full hearing before the select committee or the referee shall be as follows:

1. The Chair or the referee shall open the hearing by stating the select committee's authority to conduct the hearing, the purpose of the hearing, and its scope.

2. Testimony from witnesses and other evidence pertinent to the subject of the hearing shall be received in the following order, whenever possible: witnesses and other evidence offered by the select committee's staff or the independent counsel, witnesses

and other evidence offered by the respondent, and rebuttal witnesses. The select committee may call witnesses at any time during the proceedings.

3. Witnesses at the hearing shall be examined first by the select committee's staff or the independent counsel. The respondent or the respondent's counsel may then cross-examine the witnesses. The members of the select committee may then question the witnesses. Redirect and recross may be permitted in the Chair's or the referee's discretion. With respect to witnesses offered by the respondent, a witness shall be examined first by the respondent or the respondent's counsel, and then may be cross-examined by the select committee's staff or the independent counsel. Members of the select committee may then question the witness. Redirect and recross may be permitted in the Chair's or the referee's discretion. Participation by the select committee at the hearing stage is at the sole discretion of the select committee and is not mandatory.

(4) Burden of Proof. At the hearing, the burden of proof rests on the select committee's staff or the appointed independent counsel to establish the facts alleged by clear and convincing evidence with respect to each count.

(e) COMMITTEE RECOMMENDED ORDER

(1) Committee Deliberations. As soon as practicable, the select committee shall consider each count contained in a Statement of Alleged Violation. A count shall not be proven unless at least a majority of the select committee votes for a motion that the count has been proved. A count that is not proved shall be considered as dismissed by the select committee.

(2) Dismissal of Complaint. After the hearing, the select committee shall, in writing, state its findings of fact. If the select committee finds that the respondent has not violated any of the provisions of the Rules of the House, Joint Rule One~~1~~, or a law, rule, or other standard of conduct, it shall order the action dismissed and shall notify the respondent and the complainant of such action.

(3) Recommended Order

a. Recommended Order. If the select committee finds that the respondent has violated any of the provisions of the Rules of the House, Joint Rule One~~1~~, or a law, rule, or other standard of conduct, it shall, in writing, state its findings of fact and submit a

report to the House. A copy of the report shall be sent to the respondent and the complainant and shall be published in the House *Journal*.

b. Penalty. With respect to any violation with which a personlobbyist is charged in a count that the select committee has voted as proved, the select committee may recommend to the House that the personlobbyist be censured, reprimanded, or prohibited from lobbying for all or any part of the legislative biennium during which the violation occurred, or such other penalty as may be appropriate.

(f) PROPOSED RECOMMENDED ORDER

(1) Referee. When a hearing is conducted by referee, as provided in subsection (i), the referee shall prepare a proposed recommended order and file it, together with the record of the hearing, with the select committee. Copies of the proposed recommended order shall be served on all parties.

(2) Proposed Recommended Order. The proposed recommended order shall contain the time and place of the hearing, appearances entered at the hearing, issues, and proposed findings of fact and conclusions of law.

(3) Exceptions. The respondent and the independent counsel may file written exceptions with the select committee in response to a referee's recommended order. Exceptions shall be filed within 20 days after service of the recommended order unless such time is extended by the referee or the Chair of the select committee.

(4) Recommended Order. The select committee shall deliberate and render a recommended order pursuant to the provisions of subsection (e).

(g) CONSENT DECREE. At any stage of the proceedings, the respondent and the select committee may agree to a consent decree. The consent decree shall state findings of fact and shall be published in the House *Journal*. The consent decree shall contain such penalty as may be appropriate. If the House accepts the consent decree, the complaint pursuant to these proceedings shall be resolved. If the House does not accept the consent decree, the proceedings before the select committee shall resume.

(h) CONFIDENTIALITY. Any material provided to the House in response to a complaint filed under this rule that is confidential under applicable law shall remain confidential and shall not be disclosed except as authorized by applicable law. Except as otherwise provided in this section, a complaint and the records relating to a complaint

shall be available for public inspection upon the dismissal of a complaint by the Chair of the Rules & Calendar Council, a determination as to probable cause or informal resolution of a complaint by a Special Master or Probable Cause Panel, or the receipt by the Speaker of a request in writing from the respondent that the complaint and other records relating to the complaint be made public records.

(i) REFEREE. The Select Committee ~~on Lobbyist Conduct~~ may, in its discretion and with the approval of the Speaker, employ a referee to preside over the proceedings, to hear testimony, and to make findings of fact and recommendations to the select committee concerning the disposition of complaints.

(j) INDEPENDENT COUNSEL. The Select Committee ~~on Lobbyist Conduct~~ is authorized to retain and compensate counsel not regularly employed by the House, as authorized by the Speaker.

(k) ELIGIBILITY; SPEAKER OF THE HOUSE. If any allegation under this rule involves the conduct or activities of the Speaker, the duties of the Speaker pursuant to this rule shall be transferred to the Speaker pro tempore.

(l) *EX PARTE* COMMUNICATIONS

(1) A Special Master or a member of a Probable Cause Panel or of a Select Committee ~~on Lobbyist Conduct~~ shall not initiate or consider any *ex parte* communication relative to the merits of a pending complaint proceeding by:

- a. Any person engaged in prosecution or advocacy in connection with the matter;
- or
- b. A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the action of the panel, Special Master or select committee, or authorized representatives or counsel thereof.

(2) Except when acting in official capacity as a Special Master or as a member of a panel or select committee, a Special Master or a member of a Probable Cause Panel or of a Select Committee ~~on Lobbyist Conduct~~ shall not comment upon or discuss with any other person the matters that occasioned the appointment of the Special Master, panel, or select committee during the pendency of proceedings held pursuant to this rule before the Special Master, panel, or select committee. This section shall not apply to communications initiated or considered by the Special Master or the Chair of the panel or



select committee relating to a settlement pursuant to subparagraph (c)(2)c. or to a consent decree authorized pursuant to subsection (g).

(m) TIME LIMITATIONS

(1) ~~On or after the effective date of these rules, a~~ All sworn complaints alleging violation of the Rules of the House, Joint Rule One~~+~~, or any law, rule, or other standard of conduct by a person~~lobbyist~~ subject to the provisions of this Part shall be filed with the Rules & Calendar Council or the Speaker within 2 years after the alleged violation; provided that the Speaker may address conduct of an employee at any time.

(2) A violation of the Rules of the House is committed when every element necessary to establish the violation of the rule has occurred, and time starts to run on the day after the violation occurred.

(3) The applicable period of limitation is tolled on the day a sworn complaint against the person~~lobbyist~~ is filed with the Rules & Calendar Council. If it can be concluded from the face of the complaint that the applicable period of limitation has run, the allegations shall not be considered a complaint for the purpose of requiring action by the Chair of the Rules & Calendar Council. The complaint and all material related thereto shall remain confidential.

16.6--Penalties for Violations

Separately from any prosecutions or penalties otherwise provided by law, any person determined to have violated the foregoing requirements of these rules, any provision in Joint Rule One~~+~~ ~~adopted by the House and the Senate~~, or any law, rule, or other standard of conduct by a person~~lobbyist~~ subject to the provisions of rule 16.5 may be reprimanded, censured, prohibited from lobbying for all or any part of the legislative biennium during which the ~~violation occurred~~ recommended order is proposed, or have such other penalty imposed as may be appropriate. Such determination shall be made by a majority of the House, upon recommendation of the select committee so designated under Rule 16.5. Any prohibition or other limitation imposed by the House may be continued for up to a total of two years by a determination made by a majority of the House at or following the Organizational Session following the biennium during which such prohibition or other limitation was imposed.



1 **PROPOSED HOUSE RULE 17**

2  
3 **House Rule 17—**

4  
5 **LOBBYIST REGISTRATION AND COMPENSATION REPORTING**

6  
7 **17.1—Those Required to Register; Exemptions; Committee Appearance Records**

8  
9 (1) All lobbyists before the Florida House of Representatives must register with the  
10 Lobbyist Registration Office in the Division of Legislative Information Services within  
11 the Office of Legislative Services. Registration is required for each principal represented.  
12

13 (2) As used in Rule 17, unless the context otherwise requires:

14 (a) “Compensation” means a payment, distribution, loan, advance, reimbursement,  
15 deposit, salary, fee, retainer, or anything of value provided or owed to a lobbying  
16 firm, directly or indirectly, by a principal for any lobbying activity.

17 (b) “Division” means the Division of Legislative Information Services within the  
18 Office of Legislative Services.

19 (c) “Legislative action” means introduction, sponsorship, testimony, debate, voting,  
20 or any other official action on any measure, resolution, amendment, nomination,  
21 appointment, or report of, or any matter which may be the subject of action by,  
22 the House or any committee thereof.

23 (d) “Lobby” or “lobbying” means influencing or attempting to influence legislative  
24 action or nonaction through oral or written communication or an attempt to obtain  
25 the goodwill of a member or employee of the House.

26 (e) “Lobbying firm” means any business entity, including an individual contract  
27 lobbyist, that receives or becomes entitled to receive any compensation for the  
28 purpose of lobbying, where any partner, owner, officer, or employee of the  
29 business entity is a lobbyist. Lobbying firm does not include an entity that has  
30 employees who are lobbyists if the entity does not derive compensation from

principals for lobbying, or such compensation is received exclusively from a subsidiary corporation of the employer

(f) “Lobbyist” means a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. An employee of the principal is not a “lobbyist” unless the employee is principally employed for governmental affairs. “Principally employed for governmental affairs” means that one of the principal or most significant responsibilities of the employee to the employer is overseeing the employer’s various relationships with government or representing the employer in its contacts with government. Any person employed by the Governor, the Executive Office of the Governor, any executive, or judicial department of the state or any community college of the state who seeks to encourage the passage, defeat, or modification of any legislation by personal appearance or attendance before the House, or any member or committee thereof, is a lobbyist.

(g) “Payment” or “salary” means wages or any other consideration provided in exchange for services, but does not include reimbursement for expenses.

(h) “Principal” means the person, firm, corporation, or other entity that has employed or retained a lobbyist. When an association has employed or retained a lobbyist, the association is the principal; the individual members of the association are not principals merely because of their membership in the association.

(3) For purposes of this rule, the terms “lobby” and “lobbying” do not include any of the following:

(a) Response to an inquiry for information made by any member, committee, or staff of the House.

(b) An appearance in response to a legislative subpoena.

(c) Advice or services that arise out of a contractual obligation with the House, a member, a committee, any staff, or any legislative entity to render the advice or services where such obligation is fulfilled through the use of public funds.

(d) Representation of a client before the House, or any member or committee thereof, when the client is subject to disciplinary action by the House, or any member or committee thereof.

(4) For purposes of registration and reporting, the term “lobbyist” does not include any of the following:

(a) A member of the Legislature.

(b) A person who is employed by the Legislature.

(c) A judge who is acting in that judge’s official capacity.

(d) A person who is a state officer holding elective office or an officer of a political subdivision of the state holding elective office and who is acting in that officer’s official capacity.

(e) A person who appears as a witness or for the purpose of providing information at the written request of the chair of a committee, subcommittee, or legislative delegation.

(f) A person employed by any executive, or judicial department of the state or community college of the state who makes a personal appearance or attendance before the House, or any member or committee thereof, while that person is on approved leave or outside normal working hours, and who does not otherwise meet the definition of lobbyist.

(5) When a person, whether or not the person is registered as a lobbyist, appears before a committee of the House, that person must submit a Committee Appearance Record as required by the Rules of the House.

## **17.2—Method of Registration**

(1) Each person who is required to register must register on forms furnished by the Lobbyist Registration Office, or by the House, on which that person must state, under oath, that person’s full legal name, business address and telephone number, the name and business address of each principal that person represents, and the extent of any direct

business association or partnership that person has with any member of the House. In addition, if the lobbyist is a partner, owner, officer, or employee of a lobbying firm, the lobbyist must state the name, address, Federal Employer's Identification Number (FEIN), contact name, and telephone number of each lobbying firm to which the lobbyist belongs. The Lobbyist Registration Office or its designee is authorized to acknowledge the oath of any person who registers in person. Any changes to the information provided in the registration form must be reported to the Lobbyist Registration Office in writing within 15 days on forms furnished by the Lobbyist Registration Office.

(2) Any person required to register must do so with respect to each principal prior to commencement of lobbying on behalf of that principal. At the time of registration, the registrant shall provide a statement, on a form provided by the Lobbyist Registration Office, signed by the principal or principal's representative that the registrant is authorized to represent the principal. On the authorization statement the principal or principal's representative shall also identify and designate the principal's main business pursuant to a classification system approved by the Office of Legislative Services which shall be the North American Industry Classification System (NAICS) six-digit numerical code that most accurately describes the principal's main business.

(3) Any person required to register must renew the registration annually for each calendar year.

(4) A lobbyist shall promptly send a notice to the Lobbyist Registration Office, on forms furnished by the Lobbyist Registration Office, canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A notice of cancellation takes effect the day it is received by the Lobbyist Registration Office. Notwithstanding this requirement, the Lobbyist Registration Office may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the Lobbyist Registration Office that the lobbyist is no longer authorized to represent that principal.

(5) The Lobbyist Registration Office shall publish on the first Monday of each regular session and weekly thereafter through the end of that session a compilation of the names of persons who have registered and the information contained in their registrations.

(6) The Lobbyist Registration Office shall retain all original documents submitted under this rule.

(7) A person who is required to register under this rule, or who chooses to register, shall be considered a lobbyist of the House for the purposes of sections 11.045, 112.3148 and 112.3149, Florida Statutes.

### **17.3—Registration Costs**

(1) To cover the costs incurred in administering the legislative Lobbyist Registration Office, each person who registers must pay an annual registration fee to the Lobbyist Registration Office. The annual period runs from January 1 to December 31. These fees must be paid at the time of registration.

(2) An annual fee up to \$50 for a person to register shall be established annually by the Speaker of the House of Representatives. The fees set shall be adequate to ensure operation of the lobbyist registration and reporting operations of the Lobbyist Registration Office. The fees collected by the Lobbyist Registration Office under this Rule shall be deposited in the State Treasury and credited to the Legislative Lobbyist Registration Trust Fund specifically to cover the costs incurred in administering the legislative Lobbyist Registration Office.

### **17.4—Reporting of Lobbying Firm Compensation**

(1)(a) Each lobbying firm shall file a compensation report with the division for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. The report shall include the:

1. Full name, business address, and telephone number of the lobbying firm;
  2. Registration name of each of the firm's lobbyists; and
  3. Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories: \$0; \$1 to \$49,999; \$50,000 to \$99,999; \$100,000 to \$249,999; \$250,000 to \$499,999; \$500,000 to \$999,999; \$1 million or more.
- (b) For each principal represented by one or more of the firm's lobbyists, the lobbying firm's compensation report shall also include the:
1. Full name, business address, and telephone number of the principal; and
  2. Total compensation provided or owed to the lobbying firm for the reporting period, reported in one of the following categories: \$0; \$1 to \$9,999; \$10,000 to \$19,999; \$20,000 to \$29,999; \$30,000 to \$39,999; \$40,000 to \$49,999; or \$50,000 or more. If the category, "\$50,000 or more" is selected, the specific dollar amount of compensation must be reported, rounded up or down to the nearest \$1,000.
- (c) If the lobbying firm subcontracts work from another lobbying firm and not from the original principal:
1. The lobbying firm providing the work to be subcontracted shall be treated as the reporting lobbying firm's principal for reporting purposes; and
  2. The reporting lobbying firm shall, for each lobbying firm identified as the reporting lobbying firm's principal under paragraph (b), identify the name and address of the principal originating the lobbying work.
- (d) The senior partner, officer, or owner of the lobbying firm shall certify to the veracity and completeness of the information submitted pursuant to this paragraph, and certify that no compensation has been omitted from this report by deeming such compensation as "consulting services," "media services," "professional services," or anything other than compensation, and certify that no officer or employee of the firm has made an expenditure in violation of section 11.045(4), Florida Statutes.
- (2) For each principal represented by more than one lobbying firm, the division shall aggregate the reporting-period and calendar-year compensation reported as provided or owed by the principal. Compensation reported within a category shall be aggregated as the arithmetic mean of the category.



(3) The reporting statements shall be filed no later than 45 days after the end of each reporting period. The four reporting periods are from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31, respectively. The statements shall be rendered in a form provided by the House and shall be open to public inspection. Reporting statements may be filed by electronic means, when feasible.

(4) Reports shall be filed not later than 5 p.m. of the report due date. However, any report that is postmarked by the United States Postal Service no later than midnight of the due date shall be deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, shall be proof of mailing in a timely manner.

**17.5—Failure to file timely compensation report; notice and assessment of fines; appeals**

(1) Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be \$50 per day per report for each late day, not to exceed \$5,000 per report.

(2) Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon the earliest of the following:

(a) When a report is actually received by the division.

(b) When the report is postmarked.

(c) When the certificate of mailing is dated.

(d) When the receipt from an established courier company is dated.

(3) Such fine shall be paid within 30 days after the notice of payment due is transmitted by the person designated to review the timeliness of reports, unless appeal is made to the division. The moneys shall be deposited into the Legislative Lobbyist Registration Trust Fund specifically to cover the costs incurred in administering the compensation reporting requirement.

(4) A fine shall not be assessed against a lobbying firm the first time the report for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, the report for which the lobbying firm is responsible must be filed within 30 days after notice that the report has not been timely filed is transmitted by the person designated to review the timeliness of reports. A fine shall be assessed for any subsequent late-filed reports.

(5) Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the General Counsel of the Office of Legislative Services, who shall recommend to the Speaker, or a designee, that the fine be waived in whole or in part for good cause shown. The Speaker, or a designee, may waive the fine in whole or in part. Any such request shall be made within 30 days after the notice of payment due is transmitted by the person designated to review the timeliness of reports. In such case, the lobbying firm shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to request a hearing.

(6) A lobbying firm may request that the filing of a report be waived upon good cause shown, based on unusual circumstances. The request must be filed with the General Counsel of the Office of Legislative Services, who shall make a recommendation concerning the waiver request to the Speaker. The Speaker may grant or deny the request.

(7)(a) All lobbyist registrations for lobbyists who are partners, owners, officers, or employees of a lobbying firm that fails to timely pay a fine are automatically suspended until the fine is paid or waived, and the division shall promptly notify all affected principals and the Speaker of any suspension or reinstatement. All lobbyists who are partners, owners, officers, or employees of a lobbying firm are jointly and severally liable for any outstanding fine owed by a lobbying firm.

(b) No such lobbyist may be reinstated in any capacity representing any principal until the fine is paid, or until the fine is waived as to that lobbyist. A suspended lobbyist may request a waiver upon good cause shown, based on unusual circumstances. The request must be filed with the General Counsel of the Office of Legislative Services, who shall, as soon as practicable, make a recommendation concerning the waiver request to the Speaker. The Speaker may by grant or deny the request.

(8) The person designated to review the timeliness of reports shall notify the director of the division of the failure of a lobbying firm to file a report after notice or of the failure of a lobbying firm to pay the fine imposed.

#### **17.6—Open Records**

All of the lobbyist registration and compensation reports received by the Lobbyist Registration Office or the division shall be available for public inspection and for duplication at reasonable cost.

#### **17.7—Records Retention and Inspection and Complaint Procedure**

(1) Each lobbying firm and each principal shall preserve for a period of 4 years all accounts, bills, receipts, computer records, books, papers, and other documents and records necessary to substantiate compensation reports.

(2) Upon receipt of a complaint based upon the personal knowledge of the complainant made pursuant to Rules 16.2 or 16.5, any such documents and records may be inspected when authorized by the Speaker. The person authorized to perform the inspection shall be designated in writing and shall be a member of The Florida Bar or a certified public accountant licensed in Florida. Any information obtained by such an inspection may only be used for purposes authorized by law or Rules of the House, which purposes may include the imposition of sanctions against a person subject to House Rule 17. Any employee or agent who uses that information for an unauthorized purpose is subject to discipline. Any member who uses that information for an unauthorized purpose is subject to discipline under the Rules of the House.

(3) The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

**17.8—Questions Regarding Interpretation of Rule 17**

Persons in doubt about the applicability or interpretation of Rule 17 may submit in writing the facts for an advisory opinion pursuant to the provisions of Rule 16.4(b).

**17.9—Effect of former Joint Rule One**

Every obligation under the Joint Rule One is hereby waived by the House. The obligations under Rules 17.1, 17.2 and 17.3 are to be enforced retroactive back to January 1, 2006, provided that substantial compliance with the provisions of former Joint Rules 1.1, 1.2 and 1.3 on or before the effective date of this Rule 17 shall be deemed to be compliance with any retroactive requirements imposed herein.

**17.10—Effect of adoption of new Joint Rule**

In the event a new joint rule is adopted covering the substance of House Rules 17.1-17.8, all provisions of House Rule 17 shall be suspended and the provisions of such joint rule shall be enforced without regard to House Rule 17. In the event a new joint rule is not adopted covering the substance of House Rules 17.1-17.8, any references in House Rules 16.4-16.6 to “Joint Rule One” (or any Joint Rule numbered 1.1-1.10), shall be interpreted to mean House Rules 17.1-17.11.

**17.11—Effect of Similar Senate Rule**

Substantial compliance with any Senate Rule regulating registration of lobbyists and compensation reporting of lobbying firms shall be treated as substantial compliance with comparable requirements of Rule 17 provided such Senate Rules are consistent with the directives contained in s. 11.045(2) and (3), Florida Statutes, as amended by ch. 2005-359, Laws of Florida.